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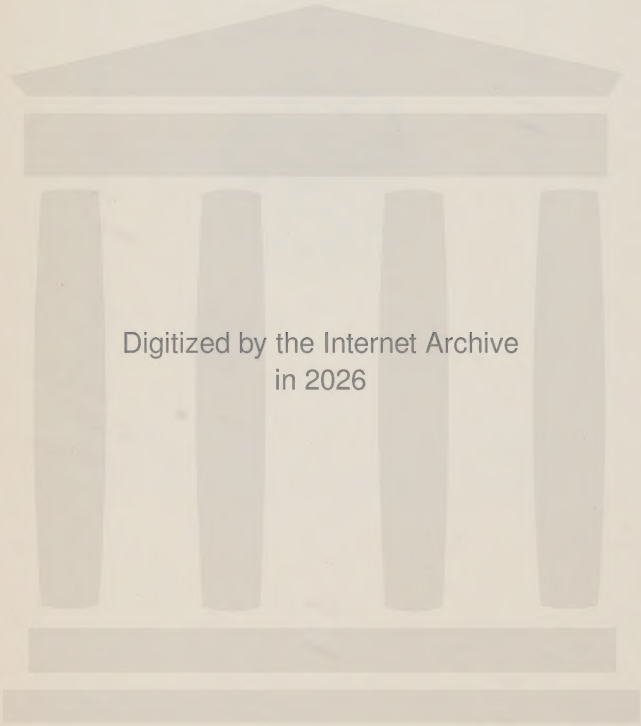
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BRITISH COLONIAL POLICY
1754-1765

BRITISH COLONIAL POLICY

1754–1765

Nam quis nescit, primam esse historiae legem, ne quid falsi dicere audeat? deinde ne quid veri non audeat. — CICERO, De Oratore, lib. ii, ch. xv.

BY

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PREFACE

THE matter contained in this essay was collected in the course of an extensive study of the old British colonial system. At the outset of the investigation, more attention was paid to the development of the eighteenth, than to that of the preceding century; but as the work progressed, the necessity of treating the origins and establishment of the system on a larger scale became patent. Consequently, although the material for the eighteenth century was to a great extent elaborated, it appeared advisable to defer its publication until the preceding age could be more carefully investigated. As, however, it was decided at the same time to treat the entire subject apart from the controversies of the American Revolution, there exists no valid reason to refrain from publishing the results of the study of the transitional years from 1754 to 1765.

The subject of the work, its exact scope and limits, are clearly indicated by the title. It is a study of British policy during the critical period of the old Empire. Thus the essay belongs distinctly to the domain of British history; but to the extent that English and American development were then inseparable, it also, but more indirectly, falls within the field occupied by American history. The focus of interest is, however, the British Empire, and not the rise of the American Nation. On its positive side the book is a portrayal of British policy, a study in imperial history; on its negative side it is an

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account of the preliminaries of the American Revolution. Hence necessarily, if viewed as a study in American history, the essay is incomplete.

The material upon which the book is based is somewhat diverse in nature. To a preponderant extent it is composed of the official British state papers, deposited in the Public Record Office in London. Of these documents a very large proportion remains still unpublished, and many of them have been virtually undisturbed since they were filed away a century and a half ago in the course of departmental routine. Secondly, the large contemporary pamphlet literature has been intensively studied. Thirdly, the British statutes have to a great extent furnished the framework of the essay. In addition, use has been made of the parliamentary journals, of various manuscript collections, of the reports of the Historical Manuscripts Commission, of contemporary newspapers, of the published papers of English and American statesmen, and of the printed records of the various colonies. It should be noted, that of the British Museum manuscripts, the transcripts in the Library of Congress at Washington, not the originals, were examined.

The nature and extent of this material are clearly indicated in the book, as the authority for every statement is given in the foot-notes. Furthermore, there has been relegated to this place a large mass of details, and in addition considerable illustrative material which, it was thought, would make the text more complete for the professional, as distinct from the lay reader. To have incorporated this matter in the body of the book, without at the same time sacrificing the readability of the text, would have unduly expanded the essay. It is hoped that

the compromise adopted will be satisfactory in meeting the wants both of the scholarly world and of the general reading public.

It would be ungracious not to acknowledge the unfailing courtesy of the officials of the Public Record Office, especially of Mr. Hubert Hall, whose unrivalled knowledge of the archives in his charge is placed unsparingly at the disposal of students. Similar acknowledgment is due to the officials of the Privy Council Office, to Mr. V. H. Paltsits of the Lenox Library, to Mr. Erb of the Columbia University Library, and to Mr. W. C. Ford of the Library of Congress. Professor E. R. A. Seligman has not only generously allowed unrestricted access to his invaluable collection of eighteenth-century economic pamphlets, but has in addition assisted in the drudgery of reading the proof. To Professor H. L. Osgood thanks are due for uniform encouragement, but more especially because he first directed the writer's attention to this field of research, and initiated him into the scientific study of history. There has been no conscious violation of the tenets of modern science, whose methods demand an exhaustive and critical study of the most reliable sources of information, and whose spirit is one of strictest objectivity and impartiality. It has been the aim of the writer to follow the principle, which according to Cicero is the primary law of historical writing, namely, to refrain from accepting anything that is false, and not to ignore anything that is true.

GEORGE LOUIS BEER.

Upper Saranac Lake,
July 26, 1907.

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BRITISH COLONIAL POLICY
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BRITISH COLONIAL POLICY

1754–1765

INTRODUCTION

The comparatively short period of time embraced within the dates of 1754 and 1765 was filled with events of momentous importance in the history of the British Empire. These few years witnessed both a vast extension of the Empire, and also the organized beginnings of a movement tending toward its disruption. In so far as any war can decide so fundamental an event apart from the underlying conditions predetermining its issue, the success of British arms in America decided that the civilization of North America was to be Anglo-Saxon, not Latin in character. In India a signal, though not a final, check was given to French ambitions, and a firm foundation was laid for future British political supremacy. In West Africa also a policy of territorial acquisition was definitely adopted. It is not the purpose of this essay to describe these well-known events. The prospects of future imperial expansion, disclosed by the victories in India and in Africa, will be disregarded, and attention will be paid solely to the Empire in America.

Nor, except to the extent that it may be necessary in order to understand the effects of British policy, is it the intention

to analyze the deeply seated causes that led to the secession of the North American colonies from the Empire. *Felix qui potuit rerum cognoscere causas.* To acquire such a state of happiness would necessitate an exhaustive examination of the Empire's development from its very origins. The tendency toward independence was present at the outset. It was in part due to the extreme individualism of the settlers, a characteristic which, while possessing distinct advantages, is not conducive to the creation of large political entities. In part also this tendency was due to the fact that the movement of colonization was largely the result of private enterprise. The mother country sanctioned the movement, supervised and aided it, and thus incurred definite responsibilities. But the colonies were not incorporated as organic parts of the English body politic. They were expected to provide the funds for their own local public affairs, and, to a great extent with this object in view, large powers of self-government were granted to them. Under these conditions, each colony, whether in the Antilles or on the continent, had developed a vigorous political life of its own, in which the popular branch of the local legislature, through its control of the purse, had become the most important factor. Each colony had its own historical traditions and institutions, its own peculiar customs and usages, to which the home government adapted itself, thus giving to the British imperial administrative system a typically flexible character, though an unsymmetrical aspect. To a great extent, pride of race had disappeared in the colonies, and patriotism was bounded by the physical limits of each

province. The colonist, in general, regarded himself not as an Englishman, nor even as an American, but as a Barbadian, a Virginian, and so on throughout the entire list of British colonies. Thus the Empire was a loosely organized political structure, composed of a number of heterogeneous colonies with different economic institutions and with varying degrees of local self-government, all tending, however, toward virtual autonomy.

In an empire of this nature, one of the most difficult problems is to create an effective system of defence which shall neither bear inequitably on the taxpayer in the mother country, nor offend the political principles of the colonists. It is a problem for which as yet no solution has been found, and which at the present day is one of the most serious of British imperial questions. Modern English statesmen have not solved the difficulty; they have merely cut the knot. Great Britain is to-day chafing at a decision which forces her to provide for virtually the entire naval defence of the Empire. Imperial defence was the rock upon which the old Empire shattered itself, and toward which similar disruptive currents in the modern Empire again tend to draw the ship of state. The unfortunate experience in the past has, however, clearly located the point of danger, though other uncharted reefs may still be encountered. In the years 1754 to 1765 this question of defence became of supreme importance because of the struggle with France. Simultaneously, the looseness of the Empire's organization was emphasized by the trade of the colonies with the enemy, which led to reforms tending to increase the efficiency of

the imperial administrative system. These were the chief colonial questions of the time, and it was to them that British statesmen devoted their especial attention.

It is the object of this essay to describe the main features of English policy during this decade. At the outset, an attempt was made to solve the problem of defence by a voluntary union of the continental colonies for this purpose. This failed, and shortly thereafter war with France was formally declared. The chief questions during the war were to secure the necessary support from the colonies in America, and also to force them to subordinate their local interests to those of the Empire as a whole by stopping their trade with the enemy. The universal success of British arms in all corners of the world, under the inspiring genius of Pitt, to a certain extent allowed Great Britain a choice as to the direction of the Empire's future expansion in America. The discussions on this subject, and the final decision reached to retain Canada and not the tropical French islands in the West Indies, revealed the fact that a distinct change had taken place in the economic theory of colonization. This change resulted in some modifications of the laws of trade, while at the same time the return of the rich West Indian islands to France led to a counter-movement designed to increase the importance of the British colonies in the same region. The old colonial system also required some readjustment in view of the territory acquired by the treaty of peace of 1763. At the same time, the successes of the war produced in England increased interest in colonial affairs generally, and led to a desire to reform patent abuses in

their administration. As a consequence there ensued not only an attempt, based on the experience gained in breaking up the colonial trade with the enemy, to stop all illegal trade, but also to some extent the determination to reform the colonial system of defence and to impose parliamentary taxes for this purpose.

CHAPTER I

THEORY AND PRACTICE OF IMPERIAL DEFENCE, PRIOR TO 1754

The general formula which summed up the reciprocal duties of mother country and colony was that the former owed protection, the latter obedience.[1] Neither protection nor obedience was a clearly defined term, yet theory and custom had bestowed upon each a fairly distinct meaning. By obedience, in general, was meant submission to acts of Parliament affecting the Empire as a whole. As the aim of British statesmen had been directed more toward creating a commercial than a closely welded political empire, obedience had come to mean, more specifically, conformity with the complex system of laws regulating the trade of the Empire. The duty of Great Britain as regards protection was also somewhat vague, yet there had developed a well-defined theory of imperial defence, and with it a general agreement as to the equitable apportionment of the burden thereof among the component parts of the Empire.

English statesmen fully understood the doctrine of "sea power," and recognized that the safety of the Empire depended primarily upon British naval strength. Thus in

[1] Thus in 1766 Grenville said: "Protection and obedience are reciprocal. Great Britain protects America; America is bound to yield obedience." Parl. Hist. 16, p. 102.

1764 the Earl of Halifax, when secretary of state, wrote: "It is upon the Superiority of the Fleets of Great Britain, that the Defence & Security of Her Colonies ever have, & ever must principally depend." [1] In time of war, the fleet was used for the general purposes of naval strategy, for the protection of the coasts of the colonies, and for the security of the trade between them and the mother country. In time of peace the navy was used to protect English and colonial commerce. The ocean in those days was not the peaceful highway of the twentieth century. British vessels trading to the West Indies were not infrequently in time of peace seized by the Spaniards and even by the French. The security of this trade depended on the strength of the royal navy. Then piracy was the great scourge of the eighteenth century, and it was only the naval power of Great Britain that forced upon the Barbary corsairs a series of treaties removing British and colonial ships from the range of their depredations. The important trade carried on from the American continental colonies to Madeira and to Southern Europe in fish, lumber, and grain depended on such immunity.[2] This entire burden fell upon the British taxpayer.

[1] Col. Corr. Bahama I, Halifax to Shirley, Oct. 30, 1764. The reference is to a series of colonial state papers in the English Record Office called Colonial Correspondence. Future references to this series will be made in the above abbreviated form. In their report to the House of Commons, Feb. 5, 1702, the Board of Trade said: "The Safety of his Maj^ts^ Dominions in America Depending chiefly on the Naval force to be sent thither at proper Seasons." B. T. Trade Papers 15, p. 302. This reference is to the Board of Trade Papers in the English Public Record Office. All future references to this series will be made in the above abbreviated form.

[2] Colonial vessels engaged in this trade were furnished with passes by the

In the general formula expressing the reciprocal duties of colony and mother country, protection meant primarily naval defence.

There was, however, also a military side to the scheme of imperial defence, and on this side the apportionment of the respective shares of the burden to be borne by mother country and colony was not so simple a matter. During war between Great Britain and a European power, the military forces of the colonies were often used in conjunction with those of Great Britain for operations outside the limits of the colonies. In 1710 and 1711, during the War of the Spanish Succession, the colonies coöperated with the British forces in the campaigns against Nova Scotia and Canada. In the following war, a considerable body of troops was raised in North America for the unfortunate attack on the Spanish colonies in 1740–1741;[1] and it was intended also

Admiralty. These passes entitled the ship to a free passage unmolested by the Barbary pirates. Full details concerning the working of this system in the colonies can be found in the Admiralty Records in the English Public Record Office. See especially Admiralty Secretary, Out-Letters 1319 to 1322, and Admiralty Secretary, In-Letters 3817 to 3819. A letter of the Lieutenant-Governor of Virginia to the Admiralty may be quoted to indicate the importance of this system. There had been some delay in sending the requested passes to Virginia, and on June 22, 1764, Francis Fauquier wrote: "The Merchants in this Colony who are concerned in the Corn and Madeira Trade are in great Distress, and are daily applying to me for them." Adm. Sec. In-Letters 3819. Future references to these documents will be made in the above abbreviated form.

[1] Thirty-six hundred men. Am. and W.I. 669. The reference is to the State Papers, Colonial, America and West Indies, in the English Public Record Office. All future references to this series will be made in the above abbreviated form.

to use colonial troops in the abortive Canada expedition toward the end of the war. In addition, the colonies on their own account engaged in military enterprises against the French. Such were the expeditions of New England against Nova Scotia and Canada at the end of the seventeenth and at the beginning of the following century. In this category also belongs the successful attack of the New England military forces, assisted by the royal navy, on the French fortress of Louisburg in 1745. The extent of this cooperation depended on the willingness of the colonies to assist and on the ability of the English government to recruit soldiers within them, for it was recognized that the Crown had no right to command the inhabitants of any British colony to march or sail on any expedition beyond its own limits.[1] Naturally, each colony was expected to do its utmost in resisting the attacks of a European power in time of war. But the earnest efforts of the English government to bring about systematic coöperation among the colonies for their joint defence, especially for the protection of the most exposed colony upon whose security their common safety depended, had ended in complete failure.[2]

Thus there was no distinct theory nor any well-defined

[1] Am. and W.I. 602: Some Considerations upon the Assistance that may be expected from the Continent of North America in an Expedition against the Spanish West Indies.

[2] Thus in 1694 the English government fixed the quotas to be furnished by the colonies for the defence of New York, but the colonies refused to obey these instructions. Calendar Colonial, 1693–1696, nos. 1253, 1790, 1791, 1816, 1870, 1881, 2054, *et passim;* N.J. Col. Doc. VIII, Part I, pp. 194–196; N.Y. Col. Doc. VI, p. 790. See especially the report of the Board of Trade to the House of Lords, Feb. 16, 1702. B. T. Commercial Series II, 641, pp. 362–382.

practice regarding the military activities and duties of the colonies in time of war with a European power. On the other hand, it was a fundamental principle of British colonial administration that during peace in Europe the defence of each colony against any local enemy should devolve primarily on the colony itself, and that assistance should be given by the mother country only if the situation were so serious as to endanger the Empire as a whole. Thus, while the brunt of the Indian wars had fallen on the colonies, Great Britain, in response to their insistent requests, frequently sent them arms and ammunition. This was done despite the protests of the Ordnance Board, which objected to these extraordinary outlays for which Parliament had made no provision. Great Britain also spent annually large sums on presents for the Indians with the object of securing their friendship.[1] In addition, the mother country supported garrisons in a number of the colonies. The largest forces were kept in the West Indian colonies which, on account of their position in the midst of Europe's "cock-pit," were exposed to sudden attacks.[2] Owing to the large numerical preponderance of the slave population in these colonies, their military strength was small; Jamaica unaided was not even able to cope with the negro insurrections. Similarly,

[1] B. T. So. Ca. 16 K 5; 17 K 87.

[2] Part of the expense of these garrisons was indirectly defrayed by the West Indian colonies. Thus Jamaica provided the quarters for the soldiers located there. *Cf.* B. T. Jam. 58, p. 336; 59, pp. 60, 82 and 11 K 44. This was also true in the Windward and Leeward Islands, owing to the fact that the four and one-half per cent export duty produced a considerable revenue, which the British government had promised to devote to the defence of the islands.

small garrisons were kept in the Bahamas and the Bermudas, as their strategic value was important owing to their location on much frequented trade-routes. Then, mainly to protect the fisheries, of both old and new England, garrisons were placed in Newfoundland and in Nova Scotia. Finally, owing to the refusal of the continental colonies to coöperate for defence against the Indians, the mother country was forced also to keep small garrisons in the two most exposed colonies, New York and South Carolina.[1] It was recognized that this was a departure from the accepted theory of defence; for prior to the great wars in the middle of the century the Indian danger was considered primarily a matter of colonial interest, and one well within the limits of the military strength of the continental colonies. In these cases the mother country assumed a burden which the colonies as a whole were unwilling to bear and which was deemed too heavy for either of the two colonies most directly concerned. After the establishment of Georgia, the South Carolina garrison was temporarily removed to the more exposed colony, and was subsequently considerably increased.[2]

The charge on the British exchequer on account of these permanent forces in the colonies was not large. In 1737 it was only £53,000, and in 1743 it was about £75,000. But of these respective amounts, only a small part was spent

[1] New York supplied the provisions for these regular troops. B. T. N.Y. 29 Hh 126. South Carolina, after the removal of the independent companies to Georgia, offered to give additional pay to these regular soldiers if they were again placed in the colony. This was done in 1746–1748. Wm. Roy Smith, South Carolina, pp. 193–195.

[2] Col. Rec. of Ga. I, p. 520.

in the continental colonies that ultimately seceded from the Empire. In 1737 only £10,000 was thus spent; in 1743 £25,000, the increase being due to the larger force established in Georgia.[1] In addition to this purely military expense, Parliament appropriated also large sums for the settlement of Georgia, which was to a great extent a military enter-

[1] Annual appropriations were made by Parliament for the forces in the colonies, and in Minorca and Gibraltar. In 1732 the grant was £160,214 (5 Geo. II, c. 17); in 1733, £164,835 (6 Geo. II, c. 25, § xii); in 1734, £203,996 (7 Geo. II, c. 12); in 1736, £216,228 (9 Geo. II, c. 34); in 1737, £215,710 (10 Geo. II, c. 17); in 1739, £228,062 (12 Geo. II, c. 19). Of these grants the larger portion was for the garrisons in Minorca and Gibraltar. Thus the grant of 1737 was distributed as follows: —

Leeward Islands	One regiment	£9,776
Jamaica	Eight companies	15,367
Bahamas	One company	2,466
Bermudas	One company	1,004
New York	Four companies	7,142
Georgia	One company	3,071
Nova Scotia and Newfoundland	One regiment	9,830
Nova Scotia and Newfoundland	Garrisons and provisions	4,098
Total for the above colonies		£52,754
Minorca and Gibraltar		162,956
Total grant of 1737		£215,710

These figures are derived from the War Office estimate for 1737 to the House of Commons. Commons Journal 22, p. 740. *Cf.* also Dinwiddie's Memorial, 1738, in B. T. Bermuda 14 M 17. At this time the force in Georgia was considerably increased, and at the same time, owing to the war, the parliamentary appropriations for the garrisons in the colonies, and in Gibraltar and in Minorca, grew larger. In 1740 they were £266,203 (13 Geo. II, c. 23); in 1741 they were £266,512 (14 Geo. II, c. 41). In 1743 the annual expense of the forces in America was £73,833, of which £7,141 was spent on the forces in New York, and £17,881 on those in Georgia. Am. and W. I. 670: A State of the annual Expense of the Forces in America, 1743.

prise designed for the protection of the Southern colonies. Prior to the outbreak of the war in 1739, the annual grants for this purpose averaged about £20,000.[1] After the restoration of peace in 1748, there was only a slight increase in the cost of the colonial garrisons, about £80,000 being expended yearly for this purpose.[2] The regiment in Georgia was disbanded at that time, as the small force in South Carolina was deemed sufficient for the protection of the Southern colonies.[3] The annual outlay for these "independent companies" in New York and South Carolina was in 1752, 1753, and 1754 only £13,000.[4] On the other hand, large sums were spent on settling and fortifying Nova Scotia, the total parliamentary grants for this military colony aggregating £543,625 in the eight years from 1750 to 1757 inclusive.[5] Reviewing these facts, it becomes ap-

[1] 8 Geo. II, c. 23; 9 Geo. II, c. 34, § xxiii; 10 Geo. II, c. 17; 12 Geo. II, c. 19.

[2] The grants for the forces in the plantations and for those in Minorca and in Gibraltar were, in 1751, 1753, and 1754, £236,420 (24 Geo. II, c. 47; 26 Geo. II, c. 25; 27 Geo. II, c. 10). In 1752 they were £229,943 (25 Geo. II, c. 25), of which £151,104 was for Minorca and Gibraltar, and £78,839 for the colonies (Commons Journal 26, p. 308). In the other years these respective amounts were £155,360 and £81,060 (*ibid.*, 26, pp. 528, 850). These amounts would be increased by about £20,000 if the expenditure of the Ordnance Board were taken into account.

[3] Col. Rec. of Ga., pp. 520, 522, 523, 527. Detachments of the three independent companies in South Carolina were placed in Georgia. *Ibid.*, p. 525.

[4] Commons Journal 26, pp. 308, 528, 850. At this time £36,000 was spent yearly for the forces in Nova Scotia.

[5] 23 Geo. II, c. 21; 24 Geo. II, c. 47; 25 Geo. II, c. 25; 26 Geo. II, c. 23; 27 Geo. II, c. 10; 28 Geo. II, c. 22; 29 Geo. II, c. 29; 30 Geo. II, c. 26. The parliamentary grants for this purpose decreased from this date on, being

parent that Great Britain was willing to spend large sums upon the defence of the outlying frontiers of the Empire, and that she was likewise willing when necessary to establish garrisons in the most exposed colonies. In general, however, the colonies were expected to assume the burden of local defence in time of peace. Until the outbreak of hostilities with France in the sixth decade of the century, the cost of the permanent garrisons in all the colonies was unimportant, and in the case of those that ultimately formed the United States it was trifling.

It was universally recognized at the time that the treaty of Aix-la-Chapelle was merely a truce, and that the conflict would soon be resumed. The phrase then current in Paris, "*bête comme la paix*," expressed the dissatisfaction of the governing classes with a treaty that gratified no one of their ambitions. The fundamental questions at issue between France and England in America had not been settled. The boundary line of Nova Scotia was still in dispute; and, in order to strengthen their position, the French erected forts in the disputed area and stirred up the Nova Scotian Indians to attack the English. Similarly in the Southwest of North America, a definite boundary line had not been agreed upon. Moreover, France was building a series of forts in the "hinter-land" of the North American colonies, connecting Louisiana and Canada, and thus confining the

£16,528 in 1758 (31 Geo. II, c. 33), £10,595 in 1761 (1 Geo. III, c. 19), and £5,684 in 1762 (2 Geo. III, c. 34). Oglethorpe criticised this heavy expenditure very severely, claiming that the money could have been used much more advantageously. See James Oglethorpe to Field Marshal Keith, May 3, 1756. Hist. MSS. Com. IX, 2, p. 229b.

English to a narrow fringe of land along the coast.[1] Finally, in the West Indies, France on various pretexts delayed the evacuation and retained possession of the four "neutral islands," St. Lucia, Dominica, St. Vincent, and Tobago, in direct violation of the agreement made shortly after the peace of 1748.[2] The prospect of an early renewal of hostilities directed the attention of the English government to the system of imperial defence, especially in North America, where France was forcing the issue.

[1] *Cf.* Am. and W.I. 604.

[2] Am. and W.I. 604. See especially the despatches of Henry Grenville, governor of Barbados, to Bedford and Holdernesse in 1750 and 1751. Am. and W.I. 40, nos. 63, 106, 109, 125, 133, 141, 147.

CHAPTER II

PLANS FOR A UNION OF THE CONTINENTAL COLONIES IN 1754

THE English government was loath to renew the struggle. Great Britain was in one of her frequent pessimistic moods, belittling her own strength and magnifying that of the enemy. It was feared that France would acquire not only political but also complete commercial supremacy, and that Great Britain would be absolutely at the mercy of her rival. The aggressions of the French in the Ohio Valley, however, forced the government to take some action. On August 28, 1753, Holdernesse, the secretary of state in charge of colonial affairs, addressed a circular despatch to the governors authorizing them to repel, by force if necessary, any invasion of his Majesty's unquestioned dominions, but cautioning them not to be the aggressors.[1] At the same time, in view of the great emergency, the home government sent £10,000 to Dinwiddie, the lieutenant-governor of Virginia, that colony being the one most affected by the French advance, and allowed him to draw £10,000 in addition for the defence of

[1] Am. and W.I. 74.

North America.[1] This departure from the regular practice was fully justified by the existing abnormal condition, for not only was an Indian war, aided and abetted by the French, in sight, but in addition a war with France was imminent.[2] Then on September 18, 1753, the Board of Trade instructed the governors of New York, Virginia, Maryland, Pennsylvania, New Jersey, New Hampshire, and Massachusetts to hold a joint meeting with the Iroquois Indians in order to secure their wavering friendship. According to these instructions, all the colonies were, if practicable, to be "comprized in one general Treaty to be made in his Majesty's name." [3]

The idea of coöperation contained in these instructions was a most fertile one, and it rapidly gained ground with the ablest men in the colonies. Outnumbering the French, approximately in the ratio of fifteen to one, the English colonies would, if united, have been fully able to cope with the enemy. But unfortunately for them, as Governor Glen said, they were but "a Rope of Sand . . . loose and inconnected." [4] France was encouraged in her aggressions by this lack of union among the English colonies.[5] Thus

[1] Brit. Mus. Addit. MSS. 33029 (Newcastle Papers CCCXLIV); Am. and W.I. 604: Braddock's Instructions.

[2] It was, however, intended that until the outbreak of formal war with France the colonies should, in the main, defend themselves in America.

[3] N.Y. Col. Doc. VI, pp. 799, 800.

[4] Am. and W.I. 67: James Glen to Dinwiddie, March 14, 1754.

[5] On May 8, 1754, Franklin wrote to Partridge: "The confidence of the French in this Undertaking seems well-grounded on the present disunited State of the British Colonies, & the extreme Difficulty of bringing so many different Governments and Assemblies to agree in any speedy & effectual

Robert Dinwiddie wrote to the secretary of state: "The French, too justly observe the want of Connection in the Colonies & from them conclude (as they declare without Reserve) that although we are vastly superior to them in Numbers, yet they can take & secure the Country before we can agree to hinder them." [1] The problem was to overcome the jealousies of the various colonies and to get them to unite for purposes of defence. During the early months of 1754, such plans were being formulated in America by Shirley,[2] Franklin, and others.

The Albany Congress of 1754 assembled as a result of the Board of Trade's instructions [3] of September 18, 1753, which contemplated only a joint treaty with the Indians. The course of events had, however, demonstrated that some more or less comprehensive scheme of defence was necessary, and hence the subject for deliberation was enlarged.[4] Of the

Measures for our common Defence and Security, while our Enemies have the very great Advantage of being under one Direction, with one Council & one Purse." Am. and W.I. 67.

[1] *Ibid.* 67: Dinwiddie to Sir Thomas Robinson, June 18, 1754.

[2] N.Y. Col. Doc. VI, p. 822: Shirley to Holdernesse, Jan. 7, 1754.

[3] *Ibid.* VI, pp. 853–856; Hutchinson, Mass. III, p. 20.

[4] Hutchinson, who was present, says: "The king in his instructions for this convention, proposed that a quota should be settled, and that, by acts of the respective assemblies, this should be established as the rule for raising men and monies." Hutchinson, Mass. III, p. 21. *Cf.* DeLancey to Board of Trade, April 22, 1754, N.Y. Col. Doc. VI, p. 833, from which it may be inferred that no such instructions were sent. I have not been able to find the instructions to which Hutchinson refers, and there is no mention of them in the proceedings of the congress. Frothingham ("Rise of the Republic of the United States," p. 132) also says that the colonies were to "enter into articles of union and confederation with each other for the mutual defence of his majesty's subjects and interests in North America, as well in time of peace as war." The for-

colonies instructed to send representatives, two — Virginia and New Jersey — failed to comply, though Virginia was represented by DeLancey, the lieutenant-governor of New York. On the other hand, the two charter colonies — Rhode Island and Connecticut — though not named in the instructions, sent representatives.[1] At the meeting of these commissioners, held on June 24, 1754, a motion to the effect that a union of all the colonies was absolutely necessary for their security and defence was unanimously adopted, and a committee was appointed to prepare such a plan.[2] The reasons that led the congress to reach this decision are embodied in a document evidently drawn up by Franklin. It describes in a comprehensive manner the disheartening particularism of the colonies:

The commissioners from a number of the northern colonies, being met at Albany, and considering the difficulties that have always attended the most necessary general measures for the common defence, or for the annoyance of the enemy, when they were to be carried through the several particular Assemblies of all the colonies; some Assemblies being before at variance with their governors or councils, and the several branches of the government not on terms of doing business with each other; others taking the opportunity, when their concurrence is wanted, to push for favourite laws, powers, or points, that they think could not at other times be obtained, and so creating disputes and quarrels; one Assembly waiting to see what another will do, being afraid of doing more than its share, or desirous of doing less, or refusing to do anything because its country is not at present so much exposed as others,

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mation of such a union, however, unquestionably had the sanction of the British government. N.Y. Col. Doc. VI, p. 846. *Cf.* R.I. Hist. Tracts, 9, pp. 41, 42.

[1] N.Y. Col. Doc. VI, p. 853; Hutchinson, Mass. III, p. 20.

[2] *Ibid.* VI, p. 859.

or because another will reap more immediate advantage; from one or other of which causes, the Assemblies of six out of seven colonies applied to, had granted no assistance to Virginia, when lately invaded by the French, though purposely convened, and the importance of the occasion earnestly urged upon them; — considering moreover, that one principal encouragement to the French, in invading and insulting the British American dominions, was their knowledge of our disunited state, and of our weakness arising from such want of union; . . .

for these reasons the commissioners unanimously decided that "a union of the colonies is absolutely necessary for their preservation." [1] These difficulties had existed throughout the entire history of the colonies,[2] but at no previous time was the situation so critical.

The committee appointed by the colonial commissioners accordingly drafted a plan of union,[3] and this plan, chiefly the work of Franklin, was in due course unanimously adopted. It provided for an executive and a legislature; the former — the president-general — to be appointed and supported by the Crown, the latter — the Grand Council — to be elected by the various assemblies in the eleven [4] colonies. This legislature was to consist of forty-eight members, the

[1] Franklin, Writings (ed. Smyth) III, pp. 203, 204. In 1754 New Jersey refused to raise supplies for the common defence, or to send commissioners to Albany. N.J. Col. Doc. VIII, Part I, pp. 287, 292, 294–296. *Cf.* B. T. Journals 62, July 2, 1754.

[2] The most exposed colonies naturally resented the apathy of the other colonies. Thus, in 1710, Governor Dudley wrote that New England was dissatisfied at having to bear the brunt of the war, while the Southern colonies, though protected by those in the North, did nothing. Am. and W.I. vol. I, no. 20 B. *Cf.* also *Ibid.* 5, no. 139.

[3] N.Y. Col. Doc. VI, p. 889.

[4] Nova Scotia was not included in the union.

colonies being represented roughly according to population and wealth. To this Grand Council was given jurisdiction over Indian affairs, both political and commercial. It was to raise and pay soldiers, to build forts for the defence of the colonies, and to "Equip Vessels of Force to Guard the Coasts and protect the Trade on the Ocean, Lakes or Great Rivers." In order to raise the requisite funds for these purposes, the Grand Council was given power to make laws and to impose general duties and taxes. All acts of the Grand Council, however, required the consent of the president-general and, in addition, all laws were to be submitted to the king in council for approbation.[1] This plan, it is apparent, implied an assumption by the colonies of a far greater share of the cost of defence than had hitherto been customary.

This proposal for a political union of the colonies under one general government in America was ultimately to be brought into effect by an act of the Parliament of Great Britain. With the exception of those from Massachusetts, the colonial commissioners did not, however, have full powers,[2] and accordingly it was provided that the plan should be first submitted to the colonies. With the same unanimity with which their representatives had adopted the plan, the colonial assemblies either rejected or failed to ratify it.[3] The reasons for this failure were, on the one hand, the particularism of the colonies, and on the other, their underlying con-

[1] Am. and W.I. 604.

[2] N.Y. Col. Doc. VI, p. 930. For the instructions from Connecticut, see Col. Rec. of Conn. X, p. 268.

[3] Hutchinson, Mass. III, p. 23; Franklin, Writings (ed. Smyth) III, pp. 226, 227 n.; R.I. Hist. Tracts, 9; Col. Rec. of Conn. X, p. 293.

viction that Great Britain, if left no other choice, would ultimately have to assume the task of defending them. According to Shirley, the commissioners at Albany "had no expectation" that the colonies would adopt the plan; and he added, "nor could any proper plan be form'd, as I apprehend, in w^ch^ the several Gov^ts^ would unite." [1] Franklin was not more sanguine. On December 29, 1754, he wrote to Collinson: —

> All the Assemblies in the Colonies have, I suppose, had the Union Plan laid before them, but it is not likely, in my Opinion, that any of them will act upon it so as to agree to it, or to propose any Amendments to it. Every Body cries, a Union is absolutely necessary, but when they come to the Manner and Form of the Union, their weak Noddles are perfectly distracted.[2]

The action of the colonies in rejecting the Albany plan was decisive, for it was the understanding of the British government and of the colonies, that the plan should be submitted to Parliament only after its consideration and adoption by the colonial legislatures.[3] In fact, the congress had made especial provision that no copy should be sent to England.[4]

[1] N.Y. Col. Doc. VI, pp. 930, 931.

[2] Franklin, Writings (ed. Smyth) III, p. 242.

[3] Report of Board of Trade to King, Oct. 29, 1754. Am. and W.I. 604.

[4] One of the Rhode Island commissioners, Stephen Hopkins, in defending his conduct, said that the Congress "did not, as is falsely asserted, order it to be sent home. . . . They did not leave it in the Power of any one to obtain a Copy of it, and send it Home; but strictly forbid their Secretary to give any Copy, except to the Colonies. Nor did they ever agree to any Thing more, than to carry it to their respective Governments, and lay it before their Constituents." Hopkins, A True Representation of the Plan Formed at Albany (Providence, 1755), R.I. Hist. Tracts, 9, pp. 42, 43. *Cf.* p. 39. As the colonies had failed to ratify the plan, it never really came before the British government. In fact surprise was expressed that an account of the proceedings had been for-

However, to the surprise of the colonies, a full account of the proceedings of the Albany Congress was forwarded to England by DeLancey, and on October 29, 1754, the Board of Trade sent to Sir Thomas Robinson, the secretary of state, a detailed report thereon.[1]

The Albany Congress had not succeeded in conciliating the Indians, nor had it provided for the joint management of Indian affairs nor for the strengthening of the frontiers, which were the chief objects desired by the British government. The Board of Trade severely criticised the failure to regulate these matters, pointing out that the situation was a serious one owing to the present mismanagement of Indian affairs, and that the commissioners at Albany had themselves unanimously agreed that Indian affairs "should be under one General Administration directed to the general Interest and supported at the general Expence" of all the colonies. As to the Albany articles of federation, the Board of Trade refrained from expressing any opinion, evidently awaiting the further action of the colonies.

While the failure of this plan rests primarily on the colonies, it is exceedingly doubtful whether the English government would have ratified it, even if the colonies by their previous

warded to England. *Ibid.* p. 59; Sharpe Correspondence I, p. 79. In 1789 Franklin wrote the following about the fate of the Albany plan: "The Crown disapproved it, as having placed too much Weight in the Democratic Part of the Constitution; and every Assembly as having allowed too much to Prerogative. So it was totally rejected." Franklin, Writings III, p. 227 n. It is worth while calling attention to this gross misrepresentation, as nearly every subsequent writer has repeated Franklin's misleading words.

[1] Am. and W.I. 604.

confirmation had allowed it to come to the consideration of Parliament. The home authorities desired a union of the colonies for military purposes, not a political federation; their aim was military efficiency, which unquestionably would have been impaired by the liberal powers bestowed on the Grand Council. This will become apparent from a consideration of the scheme of union elaborated by the Board of Trade.

In the early months of 1754, it came to be recognized in England, as in America, that a union of the colonies was necessary. On January 7, 1754, Shirley wrote to the secretary of state that the old requisition system of relying on each colony to furnish men for the defence of all was impracticable, unless the Crown could find some method of obliging the colonies to contribute their quotas.[1] On June 14, 1754, some days before the meeting of the colonial commissioners at Albany, the secretary of state, Sir Thomas Robinson, directed the Board of Trade to prepare and lay before the king "a plan of general concert to be entered into by the American colonies for their mutual defence, and to prevent and remove any encroachments on the British dominions." [2]

Accordingly, on August 9, 1754, the Board of Trade sent its plan of union to Sir Thomas Robinson.[3] Herein it was suggested that circular letters be sent to the governors in the continental colonies, pointing out the danger to which they

[1] Shirley to Holdernesse, January 7, 1754. Am. and W.I. 67.

[2] B. T. Plantations General 15, O 125. The letter was read at the meeting of the Board of Trade on June 18, 1754. B. T. Journals 62.

[3] Am. and W.I. 604; B. T. Plant. Gen. 43, pp. 368–397.

were exposed from the encroachments of France, and stating "the urgent necessity there is of an immediate union of the several Colonies" in order to maintain forts, to raise soldiers, to defray the expense of presents for the Indians and to place "Indian affairs under one general direction." The colonial assemblies were each to appoint a commissioner, subject to the approval of the governor, and these commissioners were to meet and agree upon the necessary military establishment of the colonies in time of peace, and to apportion the expense thereof among the various colonies according to their population, trade, wealth, and revenue. Provision was also made for reconvening this inter-colonial assembly whenever a sudden emergency, such as actual invasion, should require greater military exertions. The Crown was to appoint a commander-in-chief [1] of all the colonial forces, and of all troops sent to the colonies from Great Britain "upon any emergency." This officer was also to act as commissary general for Indian affairs. He was to be empowered to draw upon the proper authorities in each colony for such an amount of money as had been previously determined upon as the colony's share of the whole. The convention drawn up on these lines by the colonial commissioners was to be sent to England for approbation, and in order to enable a convention to be agreed upon, it was provided that any seven colonies were to constitute a quorum, and that the decision of a majority was to be binding.

The object of this plan was to increase the military

[1] Provision was to "be made in the Estimate for the ordinary established service for a proper Salary for such Commander in chief."

strength of the colonies and to make them provide for the additional forts on the frontier and presents to the Indians, which the threatening condition of affairs rendered necessary. It was not intended that the Crown should lessen its former expenditures for these purposes, nor that it should refuse to aid the colonies in extraordinary emergencies, such as the actual outbreak of war with France. It was distinctly stated that:

His Majesty does not intend to withdraw that part of the expence which the Crown has been usually at, for the Security and Protection of the Colonies, but that he will be graciously pleased to continue to maintain & subsist such a number of his Troops as shall appear to be necessary to be stationed in America, & does also consent that whatever sums of money have been usually given by His Majesty for Indian Services, shall be deducted from the general Estimate as the share His Majesty is willing to bear of the ordinary Establishment for this service, & that upon any great Emergency they shall receive such support from His Majesty, as shall be thought reasonable upon a due Consideration of the Nature of the Case, & of what the circumstances & conditions of the Colonies shall seem to require.[1]

This plan of the Board of Trade differed radically from that devised at Albany; it contemplated only a military union, while Franklin and his associates planned a political union as well. Both the Board of Trade and the Albany Congress, however, started from the premise that the colonies should in equity provide for their own regularly established military system.

The failure of the colonies to adopt a plan of union in 1754 forced the English to take some action for their defence. In

[1] B. T. Plant. Gen. 43, p. 380.

transmitting its plan in 1754, the Board of Trade remarked "that from the delay which must necessarily attend the execution of any new Plan for an Union of the Colonies, it cannot be made to answer the purpose of a present exigency," and that whatever danger exists at present must be guarded against "by an Application of such means of strength & force, as can be procured in the most expeditious & most effectual manner." The Board therefore suggested the appointment of a commander-in-chief over all colonial and British forces in America, and likewise the appointment of a commissary general for Indian affairs.[1] In its report on the Albany plan, the Board of Trade also proposed that "untill a Plan of Union can be settled, by which a proper provision may be made for those Services at the general Expence of the Colonies," William Johnson should be appointed colonel of the Six Nations, and be given the management of Indian affairs in the same manner and with the same allowance as when the expedition against Canada was intended during the last war.[2]

Virginia was clamoring for assistance, and the other colonies showed little or no disposition to respond to her appeal. Consequently, the English government adopted the suggestion of the Board of Trade, and sent Edward Braddock as commander-in-chief to America and with him two regiments. Parliament provided funds for this force and, in addition, for two regiments to be raised in America for service in 1755.[3] The English government, however, was loath to defray the

[1] B. T. Plant. Gen. 43, pp. 368–397. [2] Am. and W.I. 604.
[3] 28 Geo. II, c. 22.

entire cost of these troops, and accordingly the colonies were instructed to provide victuals and quarters for them.[1] In conformity with the suggestion of the Board of Trade, Braddock placed William Johnson in charge of Indian affairs.

Meanwhile the plans for union were not abandoned either in England or in America. In fact, the inadequate support given by some of the colonies to Braddock emphasized the necessity of such a union, unless the mother country were willing to assume a disproportionate share of the burden of imperial defence. The unanimity of the colonies in rejecting the Albany plan showed conclusively that of their own accord they would never form a union. It meant that the Board of Trade's plan, which was to be brought into effect by a colonial convention, had absolutely no chance of success. Hence inevitably it was suggested that recourse be taken to the sovereign legislature of the Empire, and that Parliament

[1] On Oct. 26, 1754, the secretary of state, Sir Thomas Robinson, wrote to the colonial governors to provide fresh provisions for the troops on their arrival from Europe, to furnish the officers with means of travel by land, and to obey the commander-in-chief's orders about quartering the troops, impressing carriages, etc. As these expenses were "of a Local & Peculiar nature," the colony was to meet them. Other expenses of a more general nature, such as the levying of troops, were to be defrayed out of a common fund to be established in the colonies until a general plan of union could be perfected. N.J. Col. Doc. VIII, Part II, pp. 17–19; N.Y. Col. Doc. VI, pp. 915, 916; Col. Rec. of No.Ca. V, pp. 144 *d-f*. *Cf.* N.J. Col. Doc. VIII, Part II, pp. 92, 93; N.Y. Col. Doc. VI, p. 934. See also Braddock's instructions. From long experience, the English government was fully acquainted with the parsimony of the colonies; and accordingly, in order not to hamper military operations, Braddock was advised, in his private and secret instructions, that if necessary this point should be waived. Am. and W.I. 604. See also Brit. Mus. Addit. MSS. 35909 (Hardwicke Papers DLXI).

create such a union. In submitting its plan in 1754, the Board of Trade had pointed out that, in case one or more of the colonies refused to concur in the union, either by failing to send representatives, or, after its enactment, by refusing to raise the required money, then "no other method can be taken, but that of an application for an interposition of the Authority of Parliament." [1] In America the two great champions of such a parliamentary union were Benjamin Franklin and William Shirley.[2] "'Till it is done," the former wrote, "never expect to see an American War carried on as it ought to be, nor Indian Affairs properly managed." [3] The imposition of such a union was legally within the power of Parliament,[4] but as such a step was in direct opposition to the expressed wish of all the colonies, it would have defeated its own purpose,[5] which was to secure the hearty

[1] Am. and W.I. 604; B. T. Plant. Gen. 43, pp. 368–397.

[2] Their ideas as to the nature of the desired union differed radically. See Shirley to Robinson, Dec. 24, 1754. N.Y. Col. Doc. VI, pp. 930, 931. On Oct. 21, 1754, Shirley wrote to Governor Morris of Pennsylvania that the best advice he could give was to promote the establishment of a colonial union by act of Parliament, adding: "I am labouring this point, *totis viribus*." Pa. Arch. Hazard Series II, p. 181. On Dec. 3, 1754, Governor Morris of Pennsylvania wrote to Governor Sharpe of Maryland, to the effect that if a union is brought about by act of Parliament something may be done next summer, "but hardly if we are to depend upon supplys to be granted by American Assemblys." Sharpe Correspondence I, pp. 127, 128; Pa. Arch. Hazard Series II, pp. 187, 188.

[3] Franklin to Collinson, June 26, 1755. Franklin, Writings (ed. Smyth) III, 267. *Cf.* also *Ibid.* III, p. 276.

[4] A statute of this nature would, however, have been in direct violation of the colonial charters and of the proprietary grants.

[5] However, on Aug. 30, 1754, Franklin wrote to Colden: "Our Assembly were not inclined to show any approbation of the plan of union; yet I suppose

coöperation of the colonies in the impending conflict with France. The suggestion of a parliamentary union of the colonies, especially one of a purely military nature, contained within it the idea of parliamentary taxation of the colonies.[1] To many in 1754 and 1755 this seemed the only way to compel the colonies to provide for their own defence in an adequate manner.

they will take no steps to oppose its being established by the government at home." Franklin, Writings (ed. Smyth) III, p. 228. Connecticut and Rhode Island did take such steps. Col. Rec. of Conn. X, p. 293; R.I. Hist. Tracts, 9, pp. 59 *et seq.*

[1] See especially Shirley to the Board of Trade, Jan. 5, 1756. B. T. Mass. 74 Hh 68.

CHAPTER III

PROPOPOSED TAXATION OF THE COLONIES, 1754–1756

The failure of the schemes for union in 1754, and the disinclination of the colonies not only to assist one another, but even to provide each for its own defence in an adequate manner, brought up the question of parliamentary taxation. Legally, Parliament could impose such a tax, though hitherto it had, in general, refrained from so doing. It had, however, passed several statutes regulating colonial matters, which were in the form of revenue bills.

In 1673,[1] Parliament had imposed small duties on a number of colonial products, chiefly tobacco, sugar, cotton, and ginger, when exported from one English colony to another. The chief purpose of this act was to prevent the evasion of the "enumeration" provision of a previous statute prohibiting the direct exportation of these commodities to foreign countries, but it was intended also to raise some revenue.[2] A small

[1] 25 Ch. II, c. 7, § 11.

[2] The act of 1673 refers to the navigation act of 1660, which allowed these products to be shipped from one English colony to another free of duty, "while the subjects of this your kingdom of England have paid great customs and impositions for what of them have been spent here." It refers likewise to the fact that taking advantage of this immunity, the colonies have shipped these "enumerated" commodities direct to Europe. It was thus apparently the purpose of the act to put the colonial consumer on the same footing as the English consumer, and to prevent the illegal trader, who shipped these prod-

revenue was, in fact, derived from this law.[1] So far as the continental colonies were concerned, they were chiefly affected by this act in that it imposed duties on tobacco exported from Maryland or from Virginia to another English settlement. But toward the end of the seventeenth century, the income derived from this source was granted to William and Mary College in Virginia, and was not thereafter remitted to England. As a result, virtually the entire small revenue accruing to Great Britain from this statute came from the West Indian colonies.

During the course of the war of the Spanish Succession, the question came up, whether or not European and other goods seized from the enemy and condemned as lawful prize in the colonies were subject to duties. A statute of 1707 provided that such goods should pay the same duties in the colonies as they would have paid in England, if first

ucts directly to Europe, from having any advantage over the law-abiding trader who shipped them *via* England. The revenue feature of the act was, however, the unimportant part. On June 30, 1692, the Commissioners of the Customs reported that the act was not intended for raising a revenue, but to enforce the "enumeration" policy. Treas. Misc. Various, 37 (Blathwayt's Journal I, pp. 353–355). The reference is to the Treasury Papers in the English Public Record Office. All future references will be given in the above abbreviated form.

[1] Amounts paid into the British exchequer under 25 Ch. II, c. 7:

1748	£1366	1754	£1164	1760	£1165
1749	2713	1755	1207	1761	381
1750	861	1756	2618	1762	704
1751	1645	1757	1832	1763	1322
1752	1472	1758	978	1764	1027
1753	1012	1759	1849		

Treas. Acc. Rev. Misc. (England), vols. 50 and 59.

imported there and then reëxported.[1] In other words, the duties made payable in the colonies were equal to the English duties less the drawback. Though somewhat modified subsequently, owing to the strenuous opposition of Jamaica,[2] this law imposed an import duty payable in the colonies. During the war, the act produced some revenue,[3] mainly in the West Indies; but in the continental colonies also some was collected.[4] In and about 1730, during the troubles with Spain, a very small sum was received on account of these prize duties, but in the subsequent war, 1739–1748, nothing was paid on this account into the British exchequer.[5]

In 1733, another act in the form of a revenue bill was passed.[6] This was the famous "Molasses Act" which imposed customs duties on foreign rum, sugar, and molasses imported into the English colonies. The object of this law was not to raise a revenue, but to hamper the development of the French colonies, and to prevent the importation of their produce into the English possessions. Hence the duties

[1] 6 Anne, c. 37, § 11.

[2] Am. and W.I. 4, nos. 62, 69, 70, 103.

[3] Payments into the exchequer for prize duties in the colonies:

1711	£2066	1713	£151	1715	£1292
1712	1724	1714	2267	1716	600

Treas. Acc. Rev. Misc. (England), 50.

[4] Thus, on Nov. 10, 1710, Robert Hunter, governor of New York, wrote to England suggesting that his salary for the year might be paid out of the "Dutys arising from *Cocoa* imported here by my Incouragement in a Prize taken by two Jamaica Privateers, the Customs whereof will amount to a very considerable Sum." Am. and W.I. 6, no. 44; *cf.* B. T. N.Y. 59, pp. 227, 228.

[5] Treas. Acc. Rev. Misc. (England), 50.

[6] 6 Geo. II, c. 13.

were made so high as to be virtually prohibitive.[1] About £800 yearly was collected under this law.[2]

The establishment by Parliament of a colonial postal system early in the eighteenth century [3] cannot be considered a measure of taxation, although at the outset it was objected to on this ground, and although it was incidentally designed to produce some revenue.[4]

There was, however, another method by means of which Great Britain derived a revenue from parliamentary statutes affecting the colonies. In accordance with two fundamental principles of the old colonial system, the colonies could import European goods, with some noteworthy exceptions, from Great Britain only, and were prohibited from exporting

[1] *Cf.* B. T. Journals (Opinions of Council, 1736–1738), p. 140.

[2] The total amount collected from the date of the enactment of the law to Christmas, 1749, was:

On these products imported as merchandise	£5603	4*s.*	4¼*d.*
On these products imported as prize goods	7616	4*s.*	2 *d.*
	£13,219	8*s.*	6¼*d.*

Am. and W.I. 687: Hearing of 1750–1751, appendices 4, 5.

[3] 9 Anne, c. 10.

[4] On June 24, 1718, Spotswood wrote to the Board of Trade describing the opposition in Virginia to the establishment of a postal system. He said that "the People were made to believe that the Parliament could not lay any Tax (for so they call the Rates of Postage) on them without the consent of the General Assembly." B. T. Va. 15 P 169. At the time of the controversies over the Stamp Act, in 1765 and 1766, its supporters endeavored to use the establishment of a postal system in the colonies as a precedent for a parliamentary tax. It was available for this purpose on purely technical grounds only, though it furnished an excellent instance of the exercise of parliamentary authority over the colonies. See Franklin's Examination before the House of Commons [Franklin, Writings (ed. Smyth) IV, pp. 442, 443, 448], and The Regulations Lately Made (London, 1765), p. 105.

some specifically enumerated products directly to any European country but Great Britain. Thus, non-British goods consumed in the colonies, and colonial products shipped *via* Great Britain to European markets, came within the reach of the English fiscal system. This system was, however, so arranged that but small duties were paid on these products,[1] it being roughly estimated that the duties thus collected about equalled the cost of managing and controlling the trade.[2] It is evident that this system was one designed more for the regulation of trade than for purposes of revenue; but it is equally evident that the revenue would be the main consideration, if an enumerated commodity were allowed to be exported directly from the colony to a foreign market on payment of a sum equivalent to the duties that would have been paid had it first been shipped to Great Britain and reëxported thence. This happened in the case of rice. Shortly after the introduction of rice as a staple in South Carolina, Parliament placed it among the list of enumerated commodities.[3] As the quantity of rice produced rapidly increased, the colony sought a broader market, especially direct access to that of Portugal. In this, the colony was supported by the English merchants trading to that country. These in 1715 suggested that it be permitted to ship rice direct from America to Portugal on payment in the colonies of the English duties.[4]

[1] In the case of the two most important of the enumerated products, tobacco and sugar, no duty whatsoever was collected on shipments *via* Great Britain to the continent of Europe.

[2] This subject will be more fully discussed in connection with the legislation of 1764.

[3] 2 and 3 Anne, c. 5, § xii.

[4] B. T. Journals 24, p. 465.

In 1721 the agent for South Carolina made the same proposal to the English government, suggesting that the equivalent of the English duties [1] be levied in the colony, in that case as an export duty.[2] Similar suggestions were made by the colony in subsequent years;[3] and accordingly, shortly thereafter, Parliament passed a law allowing the direct exportation of Carolina rice to those parts of Europe south of Cape Finisterre, subject to the payment in Great Britain on the rice thus shipped of an amount equivalent to the English duties less the drawback.[4] Though this duty was made payable in Great Britain, it was in its essence a colonial export tax imposed by Parliament. It furnishes a unique and remarkable instance of colonial taxation by the mother country at the suggestion of the colony itself. This tax produced some revenue, about £1200 yearly for the first seven years,[5] increasing gradually until in 1763 it yielded somewhat more than double this amount.[6]

Though these various measures were from a legal standpoint revenue bills, still (with the exception of the rice act, which was an isolated instance) they were, in general, designed to regulate trade, not to yield a revenue. Even the

[1] The English duties less the drawbacks amounted approximately to 7*d.* on every hundredweight of rice. The duty of 7*d.* was to be paid in the colony.

[2] B. T. So.Ca. 1 A 32.

[3] *Ibid.* 1 A 48, 2 B 103.

[4] 3 Geo. II, c. 28.

[5] From Christmas, 1730, to Christmas, 1737, the total direct exports of rice to Europe south of Cape Finisterre were 32,523,871 lbs. Treas. Acc. Rev. Misc. (England) 79.

[6] B. T. Plant. Gen. 19 R 47. *Cf.* B. T. So.Ca. 16 K 30, and Commons Journal 29, p. 982. Its yield at this time was about £3000.

prize-duty act was intended mainly to place merchandise imported from Great Britain on the same footing as prize goods condemned in the colonies.

These acts yielded but a trifling income. At various times, however, during the eighteenth century, it was suggested that Parliament should create a colonial revenue to pay the salaries of the officials appointed by the Crown and to defray the cost of a permanent military establishment in America. Thus, in the course of a serious controversy with the legislature, which refused to pass a revenue bill in the desired form, Robert Hunter, the able and public-spirited governor of New York, suggested that his salary should be defrayed from import and export duties in New York and from an excise on alcoholic liquors to be imposed by an act of the British Parliament.[1] This proposition was approved in England; and in 1711 the Board of Trade was instructed to prepare a bill to be laid before Parliament for creating such a standing revenue in New York.[2] As Parliament "rose" before this bill could be perfected,[3] nothing was done at this time. Later in the year,[4] and again in 1713,[5] the Board of Trade recommended that Parliament pass such a measure; the latter recommendation was like-

[1] Am. and W.I. 6, no. 44; B. T. N.Y. 59, p. 227.

[2] Am. and W.I. 582; B. T. N.Y. 59, pp. 278–286, 296. The draft of the bill is given *Ibid.* pp. 301–317. *Cf.* also Treas. Misc. Various 38 (Blathwayt's Journal III, pp. 91, 92), and Dartmouth MSS., Hist. MSS. Com. 14, X, p. 3.

[3] B. T. N.Y. 59, pp. 448 *et seq.*

[4] Nov. 13, 1711. *Ibid.* pp. 452–456.

[5] *Ibid.* 60, p. 91.

wise approved of by an order in council.[1] Meanwhile the New York Assembly, fearing the remedy proposed in England, passed a fairly satisfactory revenue act;[2] but two years later, in 1715, Hunter complained bitterly to the Board of Trade of the inadequate supplies granted from year to year by the Assembly, and again proposed an act of Parliament as the only possible solution of the difficulty.[3] Shortly after this, the controversy between the governor and the legislature was settled by a compromise measure,[4] and nothing further was done toward creating a revenue by act of Parliament. This episode is not important in itself, except in so far as it clearly shows that Parliament was deemed fully competent to pass such a measure.[5]

In 1716, Archibald Cumings,[6] one of the custom-house officials at Boston, wrote to the Board of Trade suggesting the imposition of a duty on foreign rum, sugar, and molasses imported into the British colonies.[7] In the following year he proposed a more extensive scheme of colonial taxation.

[1] B. T. N.Y. 60, pp. 113 *et seq.*; Dartmouth MSS., Hist. MSS. Com. 14, X p. 10.

[2] B. T. N.Y. 60, pp. 128, 129: Hunter to B. T., July 18, 1713.

[3] *Ibid.* pp. 296–298: Hunter to B. T., March 28, 1715.

[4] *Ibid.* pp. 320 *et seq.*: Hunter to B. T., July 25, 1715.

[5] At a later period this incident was used as a precedent for colonial taxation. Thus at the time of the repeal of the Stamp Act in 1766, in his examination before the House of Commons, Franklin was asked if he knew of this project. He replied in the negative. Parl. Hist. 16, p. 143.

[6] In 1708 Cumings was appointed to prevent illegal trade in Newfoundland, and was subsequently transferred to Massachusetts. B. T. Newfoundland 28, pp. 59, 60.

[7] B. T. New England 44, pp. 11 *et seq.*

He gave the Board of Trade detailed statistics of the importations into the colonies both of West Indian products [1] and of Fayal, Madeira, and Canary wines, all of which, he said:

might bear a Duty as a Revenue for the Crown to defray the Expences that the Plantations are Annually to Great Britain for Governors & Officers Salarys, Support of Garrisons, the Expence of the Station Men of War; and by settling a Stamp office in all the Islands and on the Continent for this Service, for as the Plantations can bear this Charge, being chargeable with little or no Duties, so it is not reasonable they should be a burden to Great Britain.[2]

These suggestions were not adopted by the home authorities, but neither were they abandoned by Cumings. In 1722 he wrote to the Board of Trade giving the details of an Indian raid instigated by the French, and stating his opinion that the colonies would not be adequately protected unless the Crown undertook their defence. He added that he could propose a scheme for raising a fund in the colonies which, while not burdensome to them, would be sufficient to defray the expense of maintaining five to six thousand regular troops in America, and also sufficient to pay the salaries of the governors and other colonial officials appointed by the Crown.[3] Naturally, the Board of Trade[4] was ready to hear the details of so promising a scheme, and accordingly Cumings sent to England an elaborate and detailed plan of colonial taxation.[5]

[1] Both British and foreign.

[2] In addition, he suggested a duty on logwood shipped from the colonies to foreign parts. B. T. New England 44, pp. 33 *et seq.*

[3] *Ibid.* 16 X 86.

[4] *Ibid.* 44, p. 349.

[5] B. T. Plant. Gen. 10 L 48: Cumings to B. T., Nov. 3, 1722.

A large colonial revenue was to be raised by a variety of taxes: by stamp duties, by import duties on West Indian products and wine, by an excise tax on rum distilled in the colonies, and by a tax on unimproved land.[1] In addition, Cumings suggested that in the future no part of the British duties be refunded on foreign European goods shipped from Great Britain to the colonies.[2]

A few years after this proposal of Cumings, Sir William Keith, who had been deputy-governor of Pennsylvania, suggested that the stamp duties be extended to the colonies, in order to provide a fund for a standing army and for the salaries of governors, judges, and other crown officials.[3]

All of these recommendations failed of acceptance. Thus the colonists insensibly drifted into the idea that Parliament could not legally tax them. The British government never raised the issue, seemingly preferring the administrative inefficiency involved in the continuous quarrels between the legislatures and the royal governors to so radical a departure from the customary practice. English character is normally conservative, and this was the age dominated by Sir Robert

[1] In this last suggestion, Cumings anticipates some modern thinkers. Unimproved land was to be taxed because "great tracts of land are ingrossed, in the hand of Rich Men, and growing in value daily, tho' unimproved, but never taxed."

[2] Cumings estimated that this change would yield £40,000 to £50,000 yearly. The goods on which he suggested that the drawbacks be no longer allowed were foreign linens, canvas, calicoes, muslins, hemp, tea, coffee, pepper, paper, and fruits.

[3] Memorial of Keith, 1728, in Am. and W.I. 602, and B. T. Plant. Gen. 10 L 105. See also Sir William Keith, A Collection of Papers and other Tracts (London, 1740), pp. 168 *et seq.*

Walpole, whose maxim, according to his son, was "*quieta non movere*." [1] It was impossible to predict the consequences of a parliamentary tax, which though a remedy for the patent evils would create a large amount of friction. The British government was not unaware of colonial sentiment in regard to parliamentary taxation. Richard Partridge, who represented the interests of the continental colonies in the prolonged struggle over the Molasses Act of 1733,[2] wrote to the Duke of Newcastle that the duties imposed by that act were worse than the prohibition of all trade with the foreign West Indies proposed the previous year, for in addition to the economic injury inflicted on the continental colonies, "it is divesting them of their Rights & privilidges as ye Kings Natural born Subjects and Englishmen in levying Subsidies upon them against their Consent when they are annexed to no County in Great Britain, have no Representatives in parliam[t] nor are any part of ye Legislature of this Kingdom." [3] Similarly, in 1744, George Clinton, then governor of New York, strongly advised against imposing a stamp tax on the colonies, as the people were averse to any taxes unless raised by themselves.[4]

After the renewal of the world-wide struggle between Great Britain and France, these suggestions of colonial taxation became more frequent. Thus in 1750, Governor

[1] Walpole, Memoirs George III (ed. Barker) II, p. 50.

[2] The passage of this act, which contained within it the seeds of much future trouble, is in striking contrast to the motto ascribed to Sir Robert Walpole.

[3] Am. and W.I. 8, no. 122: Partridge to Newcastle, March 28, 1733.

[4] *Ibid.* 9, no. 217.

Clinton, in spite of his previous advice, proposed the parliamentary imposition of import duties in the colonies to provide a fund for fortifying the frontiers.[1] In the following year, Cadwallader Colden prepared a detailed memorial on Indian affairs,[2] contrasting the success of the French policy with the failure of the English. This failure, he pointed out, was due to the fact that each of the English colonies pursued its own interests, which often clashed with those of another colony, and that the interest of the colonies as a whole was entirely disregarded. It followed therefore that Indian affairs ought to be managed jointly, and placed in charge of one man as superintendent. Furthermore, Colden pointed out that forts ought to be built on the frontiers. To provide a fund for these purposes, he advised that taxes be imposed on spirituous liquors imported into or made in the North American colonies. But "as this Duty is proposed to be general over all the Colonies, it must be imposed by Act of Parliament, because it would be a most vain imagination to

[1] Am. and W.I. 11, no. 146: Clinton to Bedford, March 26, 1750. This fund was also to support the civil list, as Clinton had become involved in an acrimonious dispute with the New York legislature about the colonial revenue. See Am. and W.I. 10 *passim*, and B. T. N.Y. 28 Hh 17.

[2] B. T. N.Y. 30 Ii 10. In the British State Papers for 1747, though probably of an earlier date, is an elaborate plan of colonial taxation designed to produce a revenue of £327,000. This scheme is anonymous, but was sent to the secretary of state from one of the Northern colonies. Its object was to provide funds for fortifying all the principal towns and ports in America, and for erecting stone forts in the interior. The taxes were of various kinds, and were not to be permanent. The most interesting suggestion was the proposal to lay an import duty of three-pence a gallon on molasses. Such a duty called forth intense opposition in 1764. Am. and W.I. 603.

expect, that all the Colonies would severally agree to impose it."

These suggestions contemplated parliamentary taxation for supporting a regular military establishment in America and for the management of Indian affairs. As already pointed out, the British government in 1754 favored a union of the continental colonies for these purposes. But to many in America it was apparent, even before the issue of the attempt, that a union of the colonies could not be consummated by their own action. Thus at the very time that the colonial commissioners were sitting at Albany, the clear-sighted lieutenant-governor of Virginia, Robert Dinwiddie, in a forcible despatch to the secretary of state, bitterly commented on the particularism of the separate colonies and on their lack of a spirit of coöperation.

> Now what, Sir, [he wrote] must be the result of this? Virginia alone is not able to support the whole Burthen; & if some Method is not found to take away these destructive Denials of Assistance from the other Colonies, when it is judged proper to be demanded by his Majesty for the common Good, as now; The Consequence must be, the present Loss of one of the finest & most fertile Countries in America; & the future destruction of all the British Dominions on this Continent.[1]

As a remedy for this distressing state of affairs, Dinwiddie proposed "an Act of Parliament to oblige each Colony to raise by a Pole Tax of one Shilling Sterling or otherways a proportional Quota of a general Sum to be applied to the present Exigency, & paid as the Legislature in Great Britain shall think fit to appoint." Later in the same year, when

[1] Am. and W.I. 67: Dinwiddie to Sir Thomas Robinson, June 18, 1754.

Washington was on the frontier striving to check the French advance, Dinwiddie was trying to arouse the Virginia Assembly to a realization of the seriousness of the situation and of the necessity of granting supplies adequate to meet it. The result of this discussion was that on September 23, 1754, he wrote to the Board of Trade:

I cannot but observe, that I think it impossible to conduct any Expedition in these parts with a Dependence of a Supply from the Assemblies, without a British Act of Parliament to lay a Poll Tax on the whole Subjects in these Provinces to bring them to a Sense of their Duty to the King, to awaken them from their Indolence to take Care of their Lives & Fortunes.[1]

The attitude of the Southern colonies (including therein Pennsylvania), in failing to coöperate heartily with the forces sent over from Great Britain under Braddock, served to strengthen Dinwiddie in his opinion that parliamentary taxation was essential.[2] On February 12, 1755, he wrote to Sir Thomas Robinson, then secretary of state: "Indeed I fear the Colonies will not be persuaded to grant mutual Supplies, but by a British Act of Parliament laying a general Tax on the Whole."[3] Two months later, Dinwiddie once

[1] B. T. Va. 25 W 170. At this time Dinwiddie was engaged in a bitter dispute with the provincial legislature about the fees to be charged when lands were granted. Brit. Mus., Hargrave MSS. 494, ff. 46-56.

[2] After Braddock's defeat, S. Phips wrote to Governor Lawrence of Nova Scotia: "Had the same Zeal been shown by the Southern Colonies as has appeared in this Province (Massachusetts) and the other Governments of New England together with New York and the Jersies, affairs would probably have been in a much better situation than they are at present." Nova Scotia Arch. (Halifax, 1869), pp. 409, 410.

[3] Am. and W.I. 68.

more wrote to Robinson,[1] on the great uncertainty of obtaining the necessary support from the Virginia Assembly, as Maryland and Pennsylvania had been so "monstrously backward," [2] and adding, "but really, without a British Act of Parliament to oblidge all the Colonies to a mutual Supply, I dread the Governours will hardly be able to perswade them." Early in the following year, Dinwiddie likewise wrote to the Board of Trade on the same subject,[3] pointing out that it would be precarious to rely on the colonial assemblies for the funds necessary to carry on the approaching war, and suggesting parliamentary taxation [4] of the colonies on the ground that "the Affairs here offered are entirely for the protection of their Estates, Lives, and every Thing else dear to Mankind." He added frankly that such a tax would arouse opposition in the colonies.[5] Dinwiddie's suggestion was not an isolated one;[6] in fact, to many this

[1] Am. and W.I. 68: Dinwiddie to Robinson, April 30, 1755.

[2] On Oct. 1, 1755, Dinwiddie wrote to the British government: "I hope the Parliament will take into their Consideration the shameful Behaviour of the Proprietary Governments of Maryland and Pennsylvania, by altering their Constitution." Am. and W.I. 69.

[3] B. T. Va. 25 W 208: Feb. 23, 1756.

[4] Dinwiddie suggested a poll-tax for two years of one shilling sterling, which would produce in all £100,000, to build the necessary forts, and for their support he proposed a permanent land tax modelled on the Virginia quit-rents of two shillings yearly per hundred acres, which would produce £60,000 yearly.

[5] "I know our People will be inflamed if they hear of my making this Proposal, as they are averse to all Taxes."

[6] On April 19, 1755, Braddock wrote at length to Sir Thomas Robinson about the disunion of the colonies, their immoderate jealousy of one another, and the great difficulties encountered in inducing them to coöperate with him, adding: "I can't help taking the liberty of mentioning the Necessity there appears to

seemed the easiest, the quickest, and consequently the most effective way to secure colonial coöperation. It was generally recognized that part of the burden of the approaching war in America should in equity be borne by the colonies. No one questioned this. It was also recognized that the colonies would not voluntarily form a union and thus bear their proportionate share. Though Franklin favored the creation of such a federation by act of Parliament, regardless of the wishes of the colonies, he opposed their taxation by the same body "where they (the colonies) have no representatives." Such a course, he said, "would create extreme dissatisfaction," because it was supposed to be "an undoubted right of Englishmen, not to be taxed but by their consent given through their representatives." [1]

The ablest colonial governor of the time, William Shirley of Massachusetts, was, however, strongly in favor of a parliamentary union coupled with parliamentary taxation of the colonies. On February 4, 1755, he wrote to Sir Thomas Robinson,[2] commenting on the unpatriotic action and petty spirit of the various

me to be of some Tax being laid throughout His Majesty's Dominions in North America" at this crisis Am. and W.I. 82. On Sept. 17, 1755, Governor Jonathan Belcher of New Jersey wrote to Robinson advising the conquest of Canada. He suggested that 5000 regular troops be sent from England, and that 25,000 men be raised in the continental colonies, and added: "But what I propose I believe will not be effected without the *Assistance of the British Parliament* to mark out & ascertain the several Quotas or Proportions of Men & Money to be raised in each several Colony or Province." N.J. Col. Doc. VIII, Part II, p. 137. *Cf. Ibid.* p. 189.

[1] Franklin, Writings (ed. Smyth) III, pp. 231–233.

[2] Am. and W.I. 68.

colonial legislatures in face of the French danger. The Pennsylvania legislature, after "an absurd obstinate Dispute w^th^ Gov^r^ Morris ab^t^ Instructions have adjourned themselves, whilst the Enemy is at their Doors, to the beginning of May, without doing anything for the preservation of their Country." The Maryland Assembly has likewise "risen" without doing anything further than providing for "a Company of fifty men, w^ch^ was done before." South Carolina was not active in the common cause, and Virginia was not doing as much as she should.[1]

This behaviour [Shirley concluded] seems to shew the necessity not only of a parliamentary Union but Taxation for the preservation of his Majestys Dominions upon this Continent, w^ch^ the several Assemblies have, in so great a measure abandon'd the Defence of, and thereby layd his Majestys Governm^t^ at home under a necessity of taking care of it for the State by suitable assessm^te^ upon the Colonies.

Shirley's plan was to convene an assembly of all the governors and some members of the various colonial councils, which should have power to draw on the British exchequer for funds needed for the defence of the colonies, Great Britain being in turn reimbursed for this expenditure by a tax imposed on the colonies by act of Parliament.[2] This

[1] These criticisms referred to the inadequate support given by the Southern colonies and by Pennsylvania to Braddock. In 1755 Georgia refused to contribute either men or money, but, as Governor Reynolds pointed out, this colony was too poor and too thinly populated to afford assistance. Addresses of Council and Assembly to Reynolds, respectively Feb. 4 and 6, 1755, in Am. and W.I. 68; and Reynolds to Sir Thomas Robinson, July 1, 1755, in Am. and W.I. 70.

[2] Hutchinson, Mass. III, p. 23. This was the plan that Franklin opposed.

plan was considered by the home authorities, but further information was desired. Accordingly, in 1755, the Board of Trade wrote to Shirley for his opinion on three points. First, the best general system for the defence of the frontiers against all future encroachments and invasions, with a plan of the forts that should be erected and an estimate of the number of regular troops that would have to be kept in the colonies. Second, a plan for managing Indian affairs under one head; and third, "what will be a proper Fund to be established for making a constant, and permanent Provision for these Services, with the least Burthen and Inconvenience to his Majesty's Subjects." [1] The Board, it should be noted, was considering a permanent military organization in the colonies.

On January 5, 1756, Shirley sent a detailed reply to the Board of Trade's request for his opinion on these matters.[2] He said that 6480 regular soldiers would be required to garrison the necessary forts in time of peace, but he pointed out that the expense of defending America would be less if the French were removed from Canada. In order to cover the cost of this military system, he advised the establishment of a general fund in all the colonies, each colony contributing to it according to its ability. He added, however, that as the colonies would not be able to come to an agreement as to such a fund, the only effectual way to establish it would be by an act of Parliament, assessing each colony according to its white population of the male sex. But Shirley was

[1] B. T. Mass. 74 Hh 68.

[2] *Ibid.*

more cautious now than he had been the preceding year. "For the general Satisfaction of the People in each Colony," he wrote, "it would be advisable to leave it to their Choice to raise the Sum assessed upon them according to their own discretion." In case any colony refused to pay the assessment, then the home government should raise it by a poll-tax imposed on the white and black population of the recalcitrant province.[1]

The British government did not adopt these suggestions, though they came from men of conspicuous ability who, from long and faithful service in the colonies, were seemingly in the best position to advise wisely. The interests of both Dinwiddie and Shirley were colonial rather than English in the narrow sense; both, especially Shirley, were ardent imperialists. Nor, on the other hand, did the British government definitely reject these suggestions. The lack of union among the colonies in face of a great danger was a severe strain on its patience. It is characteristic of the particularistic spirit prevailing in the colonies that in 1755, at a time when their very existence was threatened by the French, Massachusetts and New York engaged in a bitter boundary controversy leading to riot and bloodshed. This episode called forth a caustic rebuke from the Lords of Trade, who wrote

[1] At about the same time, on Dec. 26, 1755, Governor Arthur Dobbs, of North Carolina, wrote to the Board of Trade on the same subject. He estimated that 2800 soldiers would be required to garrison the necessary forts in the colonies in time of peace, and that the expense involved thereby would be £63,000 yearly. This sum, he wrote, should be apportioned among the colonies according to their wealth and numbers, and they, in turn, were to raise it in the manner in which each colony preferred. B. T. No. Ca. 12 C 101.

to Shirley: "It is very much to be lamented, that the internal peace of Government should be disturbed by trivial Disputes of this kind, at a time when the Colonys are so loudly called upon to exert with the greatest unanimity their utmost Strength in their own defence, and in vindication of His Majesty's Right." [1] This attitude of the colonies forced the British government to the conclusion that a large force of soldiers had to be permanently kept in America even in time of peace.[2] According to the established theory of defence, the expense incurred thereby should, in part at least, be defrayed by the colonies; but in order to make them assume it, no other way suggested itself as feasible but a tax laid by Parliament. Such a tax was, however, a distinct innovation, and its effect on the colonies could not be accurately gauged.

Though all these plans, whether of colonial union or of parliamentary taxation, were intended for a permanent military establishment in the colonies in time of peace, their ultimate object was to effect the security of the colonies in the event of war. A war with France was imminent, and in it Great Britain desired the colonies to exert themselves to the utmost. The adoption at such a crisis of a scheme of

[1] B. T. Mass. 84, p. 326. Again in 1757 this boundary dispute led to bloodshed. B. T. N.Y. 34 *passim*. In 1754 and 1755 the boundary dispute between New York and New Jersey likewise led to riots, and induced the Board of Trade to write a similar letter of rebuke to Governor Belcher of New Jersey. N.J. Col. Doc. VIII, Part I, pp. 296, 297; Part II, pp. 28, 72, 74, 124, 125. In 1755 North Carolina was engaged in a similar dispute with both Virginia and South Carolina. B. T. No. Ca. 12 C 74 *et passim*. For boundary disputes in 1757 between North and South Carolina, see B. T. So. Ca. 19 L 8.

[2] B. T. Mass. 74 Hh 68.

parliamentary taxation would have aroused some opposition in the colonies, though not to the same extent that it did later, after the French danger had been removed by the conquest of Canada. Thus, instead of strengthening the Empire in the impending struggle with France, the carrying out of Dinwiddie's and Shirley's suggestions would have had the opposite effect. Hence, these various plans were not adopted. In 1756, on the outbreak of formal hostilities, they were laid aside, to be taken up again on the restoration of peace.

CHAPTER IV

THE REQUISITION SYSTEM DURING THE WAR, 1756–1763

Owing to the failure of the plan of union of 1754 and the hesitation of the British government to adopt a policy of colonial taxation, coupled with a union imposed by act of Parliament, nothing had been accomplished at the outbreak of formal war with France toward creating in the colonies a regular military establishment, which in time of peace would be adequate to protect them against the Indians and to prevent the aggressions of either the French or the Spaniards, and which in time of war would serve as a basis for effective coöperation with the British forces. Thus the mother country was forced to rely on the old requisition system, which had never worked satisfactorily, since it had left the ultimate decision as to the extent of military support to the colonies themselves. From such a decentralized system as was this, in which each colony could refuse the requisition for soldiers or only partially comply with it, the best results could be obtained only if the colonies were encouraged to exert their utmost efforts. Accordingly, the plans for colonial taxation were laid aside, and the British government adopted measures calculated to arouse the colonies to energetic action.

In addition to the disastrous Braddock expedition of 1755, in which support was afforded by the colonies, three other military enterprises were undertaken that year. These were the successful campaign in Nova Scotia, and the unsuccessful expeditions against Niagara and Crown Point, the last being a purely colonial undertaking. On December 3, 1755, the Board of Trade held a hearing on the contributions of the various colonies to these military enterprises.[1] The total expense of the colonies was estimated at £170,000,[2] and the Board recommended that Parliament be asked to grant the colonies £120,000 "as an Encouragement to exert themselves for the future in their mutual and common Defence." The Board specifically said that "the money proposed to be given to the Colonies is meant as a Bounty and

[1] B. T. Journals 63. For the campaign in Nova Scotia, 2000 soldiers were raised in New England at the expense of the Crown. Nova Scotia Arch. pp. 258, 259, 377, 391, 396, 423; N.Y. Col. Doc. VI, pp. 956, 957. The bulk of the force under Shirley in the Niagara expedition consisted of the two regiments raised in America and supported by the Crown in the same manner as the regular soldiers. In addition the New Jersey regiment served with this force. N.J. Col. Doc. VIII, Part II, p. 117; N.Y. Col. Doc. VI, pp. 954, 955.

[2] The Board of Trade estimated the expenses of the colonies in the three expeditions against DuQuesne, Niagara, and Crown Point as follows:

New York	£18,900	Rhode Island	£8,000
New Jersey	6,900	Virginia	22,000
New Hampshire	9,000	North Carolina	8,000
Massachusetts	60,000	Pennsylvania	3,800
Connecticut	29,000	Maryland	4,500
		Total	£170,100

The Board said that it was possible that some of these estimates were too large and, on the other hand, others too small. Am. and W.I. 605; B. T. Plant. Gen. 43, p. 439.

Encouragement" to them in consideration of their past services.[1] Parliament adopted this suggestion, and in 1756 voted £115,000 for distribution among the Northern colonies, and £5000 to Sir William Johnson,[2] whose defeat of Dieskau in the Crown Point expedition, together with the success obtained in Nova Scotia, relieved the otherwise dismal military record of the preceding year. This money was distributed among the Northern colonies that had undertaken the attacks on Crown Point and Niagara, and it practically covered their entire expenses therein.[3] Nothing was voted to the Southern colonies for their support to Braddock, apparently because their help was considered inadequate. This, however, led to some ill-feeling; and in 1756 Virginia and North Carolina applied to the mother country

[1] Board of Trade to Henry Fox, Jan. 16, 1756. Am. and W.I. 605; B. T. Plant. Gen. 43, p. 441.

[2] 29 Geo. II, c. 29. This money was voted "as a free gift and reward for their past services, and an encouragement to them to continue to exert themselves with vigour in defence of his Majesty's just rights and possessions."

[3] The Board of Trade recommended the following division of this grant:

Massachusetts	£54,000	[New England	95,000]
New Hampshire	8,000	New York	15,000
Connecticut	26,000	New Jersey	5,000
Rhode Island	7,000		
New England	£95,000	Total	£115,000

The total expenses of these colonies were estimated at £131,800. B. T. Plant. Gen. 43, p. 443. Massachusetts was the most public-spirited of the colonies, but even in this colony there existed conditions hampering military efficiency. In 1755 the men refused to enlist on general terms, and refused to serve on any expedition further south than Niagara. See Shirley to Robinson, June 20, 1755. Am. and W.I. 68.

for financial aid.[1] Accordingly, in 1757, Parliament granted £50,000 to Virginia and the Carolinas as a recompense for what they had done, both in defending themselves and in acting against the enemy.[2] Nothing was voted for Pennsylvania and Maryland, whose support was insignificant.

These parliamentary grants of 1756 and 1757 formed the basis of a system elaborated by Pitt in order to secure a large body of colonial troops. Toward the end of the year 1757, he addressed circular letters to the colonial governors, urging the colonies to raise a large force. Following the general precedent of the past campaigns,[3] he wrote that all

[1] James Abercromby, agent for both colonies, said that Virginia had spent the following amounts:

1753	Defence of frontiers	£10,000
1754	Assistance to Braddock	20,000
1755	Men under Washington	65,000
1756	Support of militia	30,000
		£125,000

These sums are given in currency, and the total of £125,000 was equal to £100,000 sterling. B. T. Va. 26 X 5.

[2] 30 Geo. II, c. 26. *Cf.* B. T. Va. 26 X 36. Virginia received £32,269. Hening VII, pp. 372, 373.

[3] In 1755 Secretary Robinson wrote that the Crown would provide the provincial levies with arms and clothing. N.J. Col. Doc. VIII, Part II, pp. 92, 93; N.Y. Col. Doc. VI, p. 934. In 1756 Secretary Fox wrote that only "the raising of the Men, their Pay, Arms & Cloathing" would be required of the colonies. N.J. Col. Doc. VIII, Part II, p. 211; N.Y. Col. Doc. VII, p. 76. Similarly, on Feb. 4, 1757, Pitt wrote that "the raising of the Men, their Pay, Arms, & Cloathing will be all that will be required for this Campaign on the Part of the several Provinces." Pitt Correspondence I, p. 6; N.Y. Col. Doc. VII, p. 216. In 1758 Parliament voted £27,380 to Massachusetts and £13,736 to Connecticut to reimburse them for provisions and stores furnished to the troops raised in 1756. 31 Geo. II, c. 33. In 1760 Parliament

that was expected from the colonies was the levying, clothing, and paying of the provincial soldiers, the Crown agreeing to furnish them with arms, ammunition, tents, provisions, and artillery. In addition, Pitt said that "strong Recommendations will be made to Parliament, in their Session next year, to grant a proper Compensation for such Expences as above, according as the active Vigor, and strenuous Efforts of the respective Provinces shall justly appear to merit." [1]

A large force was raised in the colonies for the campaign of 1758, and in accordance with Pitt's recommendation, Parliament in 1759 voted £200,000 as compensation to the colonies for their military services.[2] This system was followed in subsequent years throughout the entire war. Each year the secretary of state addressed circular letters to the colonial governors, urging them to raise troops and promising to

voted £2977 to New York for similar services. 33 Geo. II, c. 19. In 1757 there was some discussion between Loudoun and Massachusetts, the colony putting all camp necessaries, such as platters, pans, kegs, etc., under the category of artillery, which the Crown had agreed to provide. Loudoun to Pitt, May 3, 1757. Am. and W.I. 85.

[1] Pitt to the governors of Massachusetts, New Hampshire, Connecticut, Rhode Island, New York, and New Jersey, Dec. 30, 1757. Am. and W.I. 75. Printed in Thackeray, Life of Chatham II, pp. 419–422; also in Correspondence of William Pitt (ed. G. S. Kimball; referred to in future as Pitt Correspondence) I, p. 136. Pitt, same date, to governors of Pennsylvania, Maryland, Virginia, North and South Carolina. Am. and W.I. 75.

[2] 32 Geo. II, c. 36. On April 30, 1759, the House of Commons passed a resolution that a sum not exceeding £200,000 be granted to his Majesty to enable him "to give a proper Compensation to the respective Provinces in *North America*, for the Expences incurred by them in the Levying, Cloathing, and Pay, of the Troops raised by the same, according as the active Vigour and strenuous Efforts of the respective Provinces shall be thought by his Majesty to merit." Commons Journal 28, p. 563.

recommend to Parliament the granting of a proper compensation for such services.[1] Each year, Parliament in turn granted large sums to the colonies.[2] These grants were partly in the nature of a reimbursement due to the colonies in pursuance of a promise made by the secretary of state, partly in the nature of free gifts to encourage them to energetic action.[3] The object of the system was to raise in the colonies as large a force as was possible. This was an important point, as great difficulty was encountered in raising troops in England. By this means also the heavy cost of transporting from Europe all the needed soldiers was avoided.[4] The total amount granted by Parliament to the colonies as compensation for levying, clothing, and paying

[1] Pitt to the colonial governors, Dec. 9, 1758. Am. and W.I. 76. Printed in Pitt Correspondence I, p. 417; in Dartmouth MSS., Hist. MSS. Com. XIV, 10, p. 9, and elsewhere. This system was continued by Pitt's successor. Egremont to the colonial governors, Dec. 12, 1761. Am. and W.I. 77.

[2] 1759, £200,000 (32 Geo. II, c. 36); 1760, £200,000 (33 Geo. II, c. 19); 1761, £200,000 (1 Geo. III, c. 19); 1762, £133,333 (2 Geo. III, c. 34); 1763, £133,333 (3 Geo. III, c. 17).

[3] See James DeLancey to Pitt, Dec. 17, 1758, enclosing a representation of the New York legislature "praying a reimbursement of their expences for the provisions furnished in the year 1756" and "some consideration for the great expence the Province has been at this year and which from your Letter of December last they had some encouragement to hope for." Am. and W.I. 71. *Cf.* also Fitch to Pitt, April 16, 1759, and July 14, 1759. *Ibid.* 72.

[4] As Pitt pointed out in his speech against the treaty of 1763, the expense involved in transporting an army to America was very large. Parl. Hist. 15, pp. 1266, 1267. See also Dennys de Berdt's memorial to Lord Walpole, sent to Pitt, Feb. 12, 1757. Pringle MSS. xix (Public Record Office). De Berdt pointed out that 6000 men raised on such terms in the colonies "will not be so much expence to the government as 1000 of any sort of Regular Troops." *Cf.* also N.J. Col. Doc. VIII, Part II, pp. 149, 150.

the soldiers was a large proportion of their outlay for military purposes, amounting to about two-fifths of the whole.[1]

The greatest difficulty in securing adequate coöperation from the colonies was encountered in the years 1756 and 1757, before this system was fully established. Loudoun, the commander-in-chief during these years, had great trouble with the colonies, and though he showed little tact in handling them, his feelings of annoyance were justifiable. Not only was much difficulty experienced in obtaining the levies themselves, but there were also interminable disputes and discussions about pay, food, transportation, conditions of service, and other matters of a similar nature.[2] As a result of his experiences, Loudoun reached the not surprising conclusion that "every Man in this Country would, if possible, throw the whole Expence on the Publick, and save the Province from being at one Shilling Expence for the Common Cause," and that "it is the constant study of every Province here, to throw every Expence on the Crown, and bear no part of the Expence of this War themselves."[3] On August 16, 1757,[4] he wrote in detail to Holdernesse, one of the two British secretaries of state, regarding the aid that could be expected from the colonies. The only satisfactory response to his call for troops had come from Massachusetts, Connecticut, and New York, the three colonies which throughout the entire

[1] Franklin, Writings (ed. Smyth) IV, p. 402. See also Pownall to Pitt, Sept. 30, 1758, and Dec. 8, 1758. Am. and W.I. 71. *Cf.* Daniel Dulany, Considerations on the Propriety of Imposing Taxes (2nd ed. Annapolis, 1765), p. 17; Samuel Adams, Writings I, p. 33.

[2] *Cf., e.g.*, Loudoun to Pitt, April 25, and May 3, 1757. Am. and W.I. 85.

[3] Loudoun to Pitt, May 3, 1757. Am. and W.I. 85.

[4] *Ibid.*

war showed the most public spirit. The failure of the other colonies to comply with his demands was due to various reasons. Georgia was too poor to give any aid or even to provide for her own defence. North Carolina, though fairly populous, was poor, and so was New Hampshire; thus, little could be expected from them. Rhode Island, Loudoun claimed, was unwilling to afford the required aid, and Virginia,[1] he said, had never furnished her quota. South Carolina proposed raising a regiment. By act of the legislature, Maryland had taken her troops from under the king's commands.[2] From New Jersey, on account of the strong Quaker influence, little could be expected.[3] The system was inherently bad; each colony, fearing to do more than its neighbor, did less than it could. Thus in 1757 Dinwiddie wrote to Pitt that the tardiness of Pennsylvania and Maryland "loaded him with many difficulties to raise our people in Virginia to a just sense of their duty."[4]

After Pitt was in full charge of affairs, and the system of parliamentary grants had been definitely established, less difficulty was encountered in securing large levies in the colonies. For the American campaign of 1758, as planned by Pitt, about fifty-one thousand soldiers were required, of

[1] *Cf.* Dinwiddie to Pitt, June 18, 1757, claiming that Virginia was doing more than her full share. Am. and W.I. 71.

[2] *Cf.* Loudoun to Pitt, June 17, 1757: "Maryland has taken the Command of all Provincial Troops, entirely out of the King's hands, or of any General he appoints." Am. and W.I. 85.

[3] *Cf. Ibid.* and likewise Loudoun to Pitt, April 25, 1757 (Am. and W.I. 85), and Belcher to Pitt, May 11, 1757 (Am. and W.I. 71).

[4] Am. and W.I. 71: Dinwiddie to Pitt, June 18, 1757.

which one-half was to be raised in the colonies.[1] Pitt instructed the Northern colonies to raise twenty thousand men,[2] and the Southern colonies as many men as possible,[3] promising that he would recommend to Parliament that some compensation be granted them for these services. The levies of the Northern colonies were to be used by Abercromby in his attack on Crown Point, those of the Southern colonies in the expedition against DuQuesne under Forbes. The response of the Northern colonies was, on the whole, satisfactory, though not completely so. The total number of soldiers for which these colonies made provision was about twenty-five hundred short of the number asked.[4] Massachusetts and Connecticut were particularly energetic, and the former colony deserved all the praise that its governor Pownall

[1] Memorandum of Troops for the year 1758:

I. Louisburg expedition under Amherst	14,215 regulars	600 rangers
II. Crown Point expedition under Abercromby	9,447 regulars	20,000 provincials
III. DuQuesne expedition under Forbes	1,880 regulars	5,000 provincials
Total	25,542 regulars	25,600 provincials

Am. and W.I. 75. The actual numbers employed differed considerably from those in this plan.

[2] Pitt to governors of Northern colonies, Dec. 30, 1757. Am. and W.I. 75.

[3] Pitt to governors of Southern colonies, Dec. 30, 1757. Am. and W.I. 75.

[4]

Massachusetts	7,000	Rhode Island	1,000
Connecticut	5,000	New Jersey	1,000
New York	2,680	New Hampshire	800
		Total	17,480

James Abercromby to Pitt, April 28, 1758. Am. and W.I. 87. The actual number of soldiers raised did not correspond exactly with these figures, as difficulty was encountered in enlisting the full numbers for which the colonial legislatures had made provision.

claimed for it.[1] Though New York also provided what seems to have been its full quota of soldiers, the action of this colony in not doing more was criticised, because the increased demand for its agricultural products during the war had made it very prosperous.[2] Rhode Island, New Hampshire, and New Jersey did not evince the same public spirit.[3] The latter colony made provision for only one thousand men — a number which, according to Abercromby, the commander-in-chief, was "far short of their Abilities." He feared that

[1] Prior to the receipt of Pitt's circular letter of December, 1757, Pownall encountered great difficulty in raising troops in Massachusetts, objections being made to the plan of operations and to a junction with the regular soldiers on account of rank. On receipt of Pitt's despatch, however, immediate provision was made for raising 7000 men. Pownall to Pitt, March 14, 1758. Am. and W.I. 71. Pownall also succeeded in putting "an End to all committees & Commissaries of Warr which has been alway an unwarrantable encroachment upon y^e^ Crown & a perpetual Clog delay & obstruction to his Majestys Service." Pownall to Pitt, May 7, 1758. Am. and W.I. 71. The zeal of Massachusetts was the more praiseworthy as the colony was suffering from a business depression which was partly the result of the war. Pownall to Pitt, Sept. 30, 1758. Am. and W.I. 71.

[2] The fact that the troops made their *rendezvous* in New York enriched it very much. Burnaby, Travels (ed. R. R. Wilson), p. 118. In 1756 Franklin wrote: "This only I can plainly see, that New York is growing immensely rich, by Money brought into it from all Quarters for the Pay and Subsistence of the Troops." Franklin, Writings (ed. Smyth) III, p. 356. Pownall claimed that New York took advantage of a "particular Expression" in Pitt's letter and disregarded its spirit, in asserting that its proportion was only 2680 men. Pownall to Pitt, March 23, 1758. Am. and W.I. 71. DeLancey, however, wrote to Pitt that this number was New York's full quota, and added: "I should have been glad the circumstances of the Province would have allowed a greater number." N.Y. Col. Doc. VII, p. 343.

[3] *Cf.* Pownall to Pitt, March 23, 1758, and Abercromby to Pitt, April 28, 1758. Am. and W.I. 71, 87.

this action of New Jersey "might slacken the Ardour of the other Colonies, who are but too apt to seize upon every Precedent that may Countenance their burthening the Mother Country, and exempting themselves." [1]

The action of the Southern colonies was far less satisfactory. Virginia proposed raising two thousand men; [2] but in the two rich proprietary colonies, local political disputes interfered with the granting of effective support.[3] The Maryland Assembly "broke up without providing any one thing for the present Service." [4] As Forbes was in great need of soldiers, he was forced to take into the Crown's pay a small body of Maryland troops that would otherwise have been disbanded.[5] In Pennsylvania, the dispute with the proprietors delayed the levying of the troops provided for by the Assembly.[6] Nothing was expected from the Carolinas,[7] but thanks to the efforts of Governor Dobbs, a small force was sent from North Carolina.[8] Not only was the support deficient in quantity, but, according to Forbes, it was also sadly lacking in quality.[9] Furthermore the colonial levies

[1] Abercromby to Pitt, April 28, 1758. Am. and W.I. 87. [2] *Ibid.*

[3] *Ibid.* Also Forbes to Pitt, May 1 and 19, 1758. *Ibid.*

[4] Forbes to Pitt, June 17, 1758. *Ibid.*

[5] Pitt Correspondence I, pp. 279, 329.

[6] Abercromby demanded 6000 men as the quota of Virginia, Maryland, and Pennsylvania. The Pennsylvania Assembly voted to raise 2700 men, but the dispute with the proprietor delayed the passage of the supply bill. This bill, in turn, was inadequate and retarded the levying of the soldiers. Pitt Correspondence I, pp. 215, 230, 235, 236, 245.

[7] Forbes to Pitt, May 1, 1758. Am. and W.I. 87.

[8] Pitt Correspondence I, pp. 328, 341.

[9] On Sept. 6, 1758, Forbes wrote to Pitt: "I vainly at the beginning flattered myself that some very good Service might be drawn from the Virginia,

were so late in arriving that military operations were seriously delayed. As late as May 19, 1758, Forbes wrote that he was still in hopes of obtaining a fair proportion of the Pennsylvania troops by June 1, and that he would be well pleased if he got "a few more than half" of the Virginia forces by the same date.[1] In addition to the difficulty in securing the colonial troops, the commander-in-chief was beset by other troubles arising from the very nature of this decentralized system. Thus the words in Pitt's circular despatch — "the whole, therefore that His Majesty expects and requires from

& Pennsylvania Forces, but am sorry to find that a few of their principal Officers excepted, all the rest are an extream bad Collection of broken Innkeepers, Horse Jockeys, & Indian traders, and that the Men under them, are a direct copy of their Officers, nor can it well be otherwise, as they are a gathering from the scum of the worst of people in every Country, who have wrought themselves up, into a panick at the very name of Indians." Pitt Correspondence I, p. 342. A short while after this Forbes commended the behavior of some of the provincial troops in resisting an attack of the French. "I was extreamly angry to find our people had not pursued and attacked their rear in their retreat, from which we might have made reprizalls, but as our troops were mostly provincialls, I was obliged to attribute it to their ignorance, for to do justice I must commend the spirit of some of the provincialls particularly the Maryland troops, who I retained in the Service, after being left to disband by their Province." Pitt Correspondence I, p. 372. On April 10, 1758, Washington wrote to Stanwix to mention him in favorable terms to Forbes "as a person, who would gladly be distinguished in some measure from the *common run* of provincial officers, as I understand there will be a motley herd of us." Washington, Writings (ed. W. C. Ford) II, p. 6. Washington, however, subsequently wrote that the Virginians acquired "very great applause for their gallant behavior" in action, and that he himself "had the honor to be publickly complimented" by Forbes on the same occasion. *Ibid.* p. 99; *cf.* p. 102.

[1] Pitt Correspondence I, p. 245. The delay was due in the main to Pennsylvania. See *Ibid.* pp. 275, 276.

the several Provinces, is the Levying, Cloathing and Pay of the Men" — were construed by some of the colonies to mean that they were exempt from furnishing their men with camp necessaries and utensils as they had formerly done. "But this," Abercromby wrote, "I have got the better on." [1]

The high mark of colonial coöperation was reached in the campaign of 1758. In 1759 there was a slight falling off, and in general the same difficulties were encountered as in 1758, especially in the Southern colonies.[2] Massachusetts,[3] Connecticut,[4] and New York again showed the most public spirit.[5] For 1760 the same number of provincial soldiers was desired as in the two preceding campaigns. Amherst, the commander-in-chief, did not anticipate that there would be any difficulty in raising the required number of men,[6] but some talk of a probable peace with France delayed the levying of troops.[7] This in turn interfered with the military operations. Amherst wrote: "The Sloth of the Colonies

[1] Abercromby to Pitt, April 28, 1758. Am. and W.I. 87.

[2] Stanwix to Pitt, June 22, 1759. Am. and W.I. 91.

[3] Massachusetts provided for 6500 men. Pownall to Pitt, March 16 and April 19, 1759. Am. and W.I. 72.

[4] Connecticut provided for 4600 men. Fitch to Pitt, April 16 and July 14, 1759. *Ibid.*

[5] New Jersey provided for 1000 men, as in the preceding year when Abercromby criticised this action. The governor, Francis Bernard, wrote to Pitt on March 20, 1759, that New Jersey showed her zeal for the cause in voting 1000 men, as her population was only 70,000 to 80,000 and as she was spending yearly on the war £70,000, whereas Pennsylvania, which was five times as populous, raised only £100,000. Am. and W.I. 72. For the details of the troops provided for by the colonies for 1759, see Cal. Home Office Papers, 1760–1765, no. 93, p. 24.

[6] Pitt Correspondence II, p. 226.

[7] *Ibid.* II, pp. 301, 302.

in raising their Troops, and sending them to their Rendezvous, made it impracticable for me to move the Troops on, so soon as I could have wished." [1] In general, the various colonies again afforded about the same relative support as in the preceding campaigns.[2] The Southern colonies were once more backward,[3] and this attitude caused Pitt to send them a stinging rebuke "for the Want of Zeal, they have shewn on former Occasions for the King's Service." [4] Of these

[1] *Ibid.* II, p. 305: Amherst to Pitt, June 21, 1760.

[2] Connecticut provided for 5000 men. Pitt Correspondence II, p. 273. Massachusetts provided for 5000 men over and above those in garrison at Louisburg and in Nova Scotia. *Ibid.* II, p. 254. New York provided for 2680 men and New Hampshire for 800 men. *Ibid.* II, pp. 286, 289. Pennsylvania provided for 2700 men. *Ibid.* II, p. 276. There was, however, considerable discrepancy between these numbers and those actually in the field.

	NUMBER OF MEN VOTED	NUMBER OF MEN RAISED
New Hampshire	800	796
Massachusetts	5,500	4,964
Rhode Island	1,000	952
Connecticut	5,000	3,397
New York	2,680	2,468
New Jersey	1,000	935
Pennsylvania	2,700	1,350
Maryland	——	——
Virginia	1,000	1,000
North Carolina	500	——
South Carolina	——	——
	20,180	15,862

On Virginia and South Carolina, see *post.* Amherst's certificate in Minutes of the Provincial Council of Pennsylvania IX, p. 48.

[3] Sharpe to Pitt, April 14, 1760, to the effect that there was no hope for troops from Maryland. Pitt Correspondence II, pp. 274, 275. The same was true of North Carolina. *Ibid.* II, p. 297.

[4] Pitt to Amherst, Dec. 17, 1760. Am. and W.I. 77. According to Bull,

Maryland "had failed in its Duty" and North Carolina was "extremely wanting."

In 1760 Montreal fell, and with it Canada became virtually a British possession. Hence there was not the same need for colonial troops, and the Northern colonies were asked to raise for 1761 only two-thirds of their previous levies, while the delinquent Southern colonies were asked to raise as many men as was possible.[1] The removal of the danger of a French invasion, however, lessened the ardor of the colonies, and their responses were less satisfactory than they had been during the preceding years.[2] In 1761, Egremont, then secretary

the lieutenant-governor of South Carolina, that colony was unable to raise men for service under Amherst, as its strength was needed to cope with the Cherokees. Pitt Correspondence II, pp. 286, 287, 420–425. In addition to the corps of 500 "rangers," South Carolina made provision for raising 1000 men for coöperation with the British troops under Colonel Montgomery against the Indians. According to Amherst, not more than 30 of these 1000 men were raised, and the "rangers" were chiefly employed in escorting provisions to the army. Minutes of the Provincial Council of Pennsylvania IX, p. 48. In 1760 Virginia had 1400 men in her pay, of whom 1000 were detached to assist South Carolina in the Cherokee war, thus leaving only 400 for service under General Monckton. Pitt Correspondence II, pp. 415–416. These 1000 men were evidently too late in the field to be of any assistance to Montgomery in South Carolina. See Virginia Committee of Correspondence, in Virginia Magazine of History and Biography XI, pp. 17, 20, 24. *Cf.* McCrady, South Carolina, Royal Government, p. 347.

[1] Pitt Correspondence II, pp. 365–370.

[2] Amherst to Pitt, May 4, 1761: "I imagine, the former apprehension of the Enemy invading the Provinces being now totally ceased, their Confidence of their own safety, may be the Occasion, that His Majesty's Requisition for this further Aid, has not been, so immediately and fully complyed with as ought to have been." Pitt Correspondence II, p. 426. For the attitude of the various colonies, see *Ibid.* II, pp. 415, 416, 419, 420–425, *et passim.* Amherst's certificate gives the details:

of state, censured the Southern colonies for their neglect, just as Pitt had censured them the year before.[1] The same number of troops was again requisitioned for the campaign of 1762.[2] Maryland, Pennsylvania, and North Carolina were this year especially rebuked for their failure to respond.[3] A small body of colonial troops was employed in the successful attack on Havana,[4] and it was intended to use

	NUMBER OF MEN VOTED	NUMBER OF MEN RAISED
New Hampshire	534	438
Massachusetts	3,220	2,637
Rhode Island	666	395
Connecticut	2,300	2,000
New York	1,787	1,547
New Jersey	600	554
Virginia	1,000	1,000
North Carolina	500	225
	10,607	8,796

Correspondence of the Colonial Governors of R.I. II, p. 349.

[1] Egremont, Dec. 12, 1761, to the governors of Pennsylvania, Maryland, North and South Carolina. Am. and W.I. 77. Pennsylvania was not included in this censure.

[2] The Northern colonies, including Pennsylvania, were asked to raise the same levies as in 1761, that is, two-thirds of the levies asked for in 1758, 1759, and 1760; and the Southern colonies were asked to raise as many men as possible. Egremont to the colonial governors, Dec. 12, 1761. Am. and W. I. 77.

[3] Egremont to Amherst, July 10 and Sept. 11, 1762. *Ibid.*

[4] Amherst was instructed to send 4000 troops to Albemarle for the attack on Havana, and he was to endeavor to raise in America some provincial troops as part of this force. The following provincial troops served with Albemarle: from New Jersey, 222; from Rhode Island, 217; from New York, 567; from Connecticut, 912. Albemarle was instructed to treat these provincial troops as regulars; and Amherst was also "authorized to offer to the said Provincials any further Douceurs that He shall think proper and reasonable." Albemarle was enjoined to "take especial Care, that They be

them also in the proposed expedition against Louisiana, which, however, had to be abandoned on account of the inadequate force available.[1]

From this survey of events during the war it will be apparent that the requisition system was largely a failure. The most active and energetic colonies were Massachusetts, Connecticut, and New York, which together furnished nearly seven-tenths of all the colonial troops, while their population was only about one-third of the total number of whites in the continental colonies.[2] In addition to the troops raised for the army, Massachusetts supported forts and garrisons, and had scouts on the frontier. Moreover, though suffering from an economic depression, this colony kept two armed vessels at sea.[3] The least public-spirited colonies were North

treated with all such proper Attention and Humanity, that They may not return Home disgusted with the Service, but, on the Contrary, may be induced readily and chearfully to Act in conjunction with Our Regular Forces on any future Occasions." Secret Instructions to Albemarle, §§ 7 and 8 *et passim*, in Colonial Correspondence, Havana I.

[1] It was intended to attack Louisiana after the expedition against Havana had its issue. Amherst was instructed to send 4000 men to assist Albemarle against Havana, and, on the fall of that city, these troops were to be returned to him. Then with 8000 men he was to attack Louisiana. The great mortality among the English troops in Cuba, due to sickness, prevented Albemarle from returning these troops to Amherst, and the Louisiana enterprise had to be abandoned. Egremont to Amherst, Jan. 13, July 10, Sept. 11, 1762. Am. and W.I. 77. Amherst to Egremont, May 12, 1762. Am. and W.I. 97. Secret Instructions to Albemarle. Colonial Correspondence, Havana I. Albemarle to Egremont, Aug. 21, 1762, and Oct. 7, 1762. *Ibid.*

[2] Board of Trade's estimate, Aug. 29, 1755. Am. and W.I. 605; N.J. Col. Doc. VIII, Part II, p. 132; N.Y. Col. Doc. VI, p. 993.

[3] Pownall to Admiralty, Sept. 12, 1757. Adm. Sec. In-Letters 3818. In 1758 Massachusetts had a twenty-gun ship. Pownall to Pitt, Sept. 30, 1758.

Carolina, Maryland, and Pennsylvania. In North Carolina the enthusiasm of Governor Dobbs was not able to arouse the colony from its indifference to the great struggle, in which its own vital interests were intimately bound up. In the two other colonies, local political disputes interfered with effective support. In Maryland there was a serious quarrel between the two branches of the legislature, one popularly elected, the other appointed by the proprietor. Similarly, at this inopportune time, the Assembly in Pennsylvania sought to bring to an issue its disputed right to tax the proprietary estates. In the case of both these colonies there is good reason for thinking that they were not acting with entire sincerity and that they availed themselves of these disputes to shirk their simple duty.[1] But apart from the

Am. and W.I. 71. See also Mass. Acts and Resolves III, p. 989 (1756–1757 c. 12) *et passim.*

[1] See Forbes to Pitt, July 10, 1758. Am. and W.I. 87. The Maryland Council refused to agree to the bill for raising troops in the form in which it had passed the lower house. Concerning this bill, Mereness (Maryland, p. 333) says that from several clauses in it "one is inclined to infer that the real intention of the house which passed it was to embarrass the government of the province rather than to give assistance to General Forbes." Two years later (April 14, 1760) Governor Sharpe wrote to Pitt that the lower house had again presented the objectionable bill to the council "not expecting their Concurrence, but conceiving that it would have a better Appearance for them to Vote Supplies & then propose to raise them by a Bill which they knew would be rejected, than at once to declare themselves entirely averse to granting any Money for His Majesty's Service." Sharpe added: "I am convinced that a Majority of their Constituents (now they think themselves secure from Danger) are really averse to being burthened with any new Taxes." Am. and W.I. 72. The sincerity of the Pennsylvania legislature is also open to serious question. See W. R. Shepherd, History of Proprietary Government in Pennsylvania, pp. 448 *et seq.* and p. 469. Governor Hamilton wrote to Pitt, May 12,

merits of these controversies, it is apparent that a system which allowed a colony to evade in whole or in part the performance of its obligations as a part of the Empire was inherently vicious. Each colony was intent on seeing what the others were doing, and the action of the least zealous tended to become the standard by which the others regulated themselves.[1] The system was an unfair one. It threw a relatively larger share of the burden on public-spirited colonies, whose activity was thus penalized, while at the same time a premium was placed on neglect of duty. It diminished the potential military strength of the colonies during the greatest crisis of their existence, forcing the mother country to make up, in part at least, the deficiency thus created. It also limited the extent of the operations themselves; for, had

1761: "I cannot help being of Opinion, that they never did intend, from the beginning, to comply with his Majesty's requisitions in the smallest degree, but at the price of obtaining for themselves Powers and Advantages, which must have render'd the Government so weak and impotent, as to be unable at any future time, to contend with them, however necessary it might be." Pitt Correspondence II, pp. 432–435. On Nov. 27, 1762, Egremont wrote to Hamilton, expressing "His Majesty's high Disapprobation" at Pennsylvania's evasion of the requisitions; for though with seeming cheerfulness they voted to raise 1000 men, yet his Majesty cannot but consider their insistence on the clauses in the supply bill, that had already been disapproved of, "as proceeding from a predeterminated Resolution not to afford any Assistance to the Service in General." Pa. Arch., 4th Series, III.

[1] Loudoun to Pitt, Feb. 14, 1758. "The Precedent, of one Province breaking off and not furnishing in Conjunction with the others, may have very bad Effects, as the Universal plan in this Country is, to throw all Expences off themselves and lay it on the Mother Country; therefore the Danger is others will follow the Example." Pitt Correspondence I, p. 187. In 1755, Governor Belcher of New Jersey wrote that his colony was well spirited, "altho Pennsylvania sets them so vile an Example." N.J. Col. Doc. VIII Part II, p. 169.

more troops been available, it is probable that Louisiana would have been conquered. From a military standpoint as well, the system was deficient. The successive commanders-in-chief wasted much time and energy in obtaining the colonial levies. In order to secure the needed support, they were repeatedly forced to interfere in the internal politics of the colonies, especially in Pennsylvania.[1] Disputes as to the conditions and duration of service were frequent. It was never exactly known how many troops the colonies would provide, and occasionally their tardiness in arriving for service unduly delayed an expedition. In all these different ways were military operations hampered, and the strength and efficiency of the army impaired. Thus, the experiences of the war served but to reënforce the conclusion reached by many already in 1755, that the defence of the colonies in time of peace could not with safety be left to them because of their lack of union, and also that they could not be relied upon as a whole to provide voluntarily for their due proportion of the necessary military establishment.

[1] *Cf.* Pa. Arch., Hazard Series, III, pp. 712, 715–719.

CHAPTER V

THE REGULATION OF TRADE DURING WAR

While events during the war were demonstrating the necessity of a more efficient system of defence, the trade of the colonies with the enemy directed attention to defects in the administration of the laws of trade and to the necessity of reforms therein. In accordance with the clearly defined and unequivocal principle of British law, all commercial intercourse with the enemy was absolutely prohibited in time of war.[1] Naturally great difficulty has always been encountered in enforcing such a prohibition, especially when the belligerents are mutually dependent in their economic interests.[2]

Throughout the eighteenth century, the British government had found it almost impossible to prevent the English colonies

[1] In 1799, in the case of the "Hoop," Sir William Scott, later Lord Stowell, said: "There exists such a general rule in the maritime jurisprudence of this country, by which all trading with the public enemy, unless with the permission of the sovereign, is interdicted." Robinson (Philadelphia, 1800) I, p. 167, and J. B. Scott, Cases on International Law, pp. 521, 522. See F. de Martens, Traité de Droit International (trans. by A. Léo) III, pp. 200, 201; T. A. Walker, A Manual of Public International Law, p. 121.

[2] Even in so bitter a struggle as the American Civil War, there was considerable trade between the belligerents. J. C. Schwab, The Confederate States of America, pp. 259–266; J. F. Rhodes, History of United States, III, pp. 549, 550; V, pp. 274, 275.

from trading with the temporary enemy in America. In the War of the Spanish Succession, a large trade was carried on with the French and Spanish colonies.[1] The trade with Spanish America was found so profitable to the Dutch allies that, owing to the pressure of the English mercantile classes, Great Britain was obliged to legalize it under certain limitations, though not waiving the principle involved.[2] In the War of the Austrian Succession, the commercial relations of the British colonies with the French West Indies[3] were of so extensive a nature, that Admiral Knowles declared they had resulted in the failure of English naval operations in the Caribbean Sea.[4]

The difficulty of putting a stop to this intercourse arose, in great degree, from the economic relations existing between the French West Indies and the British continental colonies. The French islands were not self-sustaining; they devoted their energies to the production of sugar, coffee, indigo, and similar commodities, and imported a large proportion of their food-stuffs from the British colonies. Similarly, French

[1] *Cf.*, *e.g.*, Instructions to the colonial governors, May 2, 1710, and Sunderland to Hunter, May 9, 1710. Am. and W.I. 386.

[2] Nottingham to the colonial governors, Feb. 23, 1704, and to Board of Trade, Feb. 24, 1704. Am. and W.I. 385. *Cf.* Am. and W.I. 1 *passim*, and *Ibid.* 6, no. 10. See also 6 Anne c. 37, § xvii.

[3] *Cf.* Am. and W.I. 2, no. 390; *Ibid.* 14, no. 85.

[4] At a hearing before the Board of Trade on Dec. 6, 1750, Admiral Knowles said: "Every Captain of his Squadron knows that these North American Vessels supplied the French with provisions otherwise he should certainly have taken Martinique." At one time, he said, there were at Hispaniola 42 British colonial vessels "with fictitious Flags of Truce." B. T. Journals 58. See also B. T. Plant. Gen. 16 P 18.

Cape Breton depended to some extent also on the English colonies. At the same time, Ireland was a large exporter of provisions, especially of pork and beef, and it was with supplies purchased in this market that French fleets and armies were in part at least provisioned and the West Indies fed. Thus two great sources of provisions, on which France depended, were in British hands. At the outbreak of difficulties with France in 1754, the British government clearly recognized the immense advantage arising therefrom. Without Irish and American provisions, the French West Indies would suffer severely, and at the same time, France would be unable to refit her men-of-war in America and undertake privateering expeditions. It is interesting and important to see how Great Britain used this economic weapon against the French, and to what extent the colonies aided or hampered the policy adopted by the mother country.

Early in 1755, Dinwiddie wrote from Virginia to the Board of Trade that the French forces in Canada were chiefly supplied from Pennsylvania, New York, and the Northern colonies; that flour, beef, pork, and other provisions were taken to Cape Breton, where they were exchanged for French rum, sugar, and molasses. From Louisburg these provisions were sent to Quebec, and thence to the Ohio Valley. He suggested as a remedy for this "unjustifiable trade," which supported the French Ohio expedition, that colonial provisions be put in the "enumerated list," thus prohibiting their exportation to foreign parts, and also that Irish provisions be placed under the same regulations. Such steps, he pointed out, would paralyze the military schemes of the

French and would prevent their fitting out a fleet.[1] At the meeting of the Board of Trade on April 9, 1755, this letter from Dinwiddie was read.[2] War with France had, however, not yet been declared, and consequently this trade could not be stopped on the principle of no trade with the enemy. On the other hand, the Board of Trade had always questioned the legality of any trade whatsoever between the English and French colonies in America. In 1717[3] it had sent a circular instruction to the colonial governors to prohibit all trade with the French settlements, as contrary to the Treaty of Neutrality of 1686 between France and England.[4] This treaty guaranteed to each power an exclusive trade with its colonies, and allowed the French and English Crowns respectively to seize ships of the other nation attempting to invade this monopoly. The Board of Trade's interpretation of the treaty was clearly an untenable one, and although it had led to some difficulties, chiefly in the Bermudas,[5] it had not been insisted upon.[6] On receipt of Dinwiddie's

[1] B. T. Va. 25 W 183. See also Dinwiddie to Secretary Robinson, Jan. 20, 1755. Am. and W.I. 68. This is confirmed by DeLancey, Aug. 9, 1755. B. T. N.Y. 32 Kk 62.

[2] B. T. Journals 63.

[3] B. T. Bermuda 32, p. 330. *Cf.* B. T. N.J. 13, p. 447.

[4] This regulation was incorporated in the voluminous instructions given to the governors. See, *e.g.*, Instructions to Governor John Hart, 1721, § 94. B. T. Leeward Isles 53, p. 70.

[5] B. T. Bermuda 12 L 12, 13, 15 *et passim;* Am. and W.I. 49, nos. 179, 184, 273, 278; *Ibid.* vol. 620.

[6] In very many documents this trade is referred to as illegal, thus increasing the number of undifferentiated references to illegal trade, and further adding to the difficulty of estimating the extent of the violations of the laws of trade and navigation.

despatch, the Lords of Trade again reverted to this interpretation of the treaty of 1686, but as they were in doubt, the opinion of William Murray,[1] the attorney-general, was asked. He correctly said, that "it was not the Intent of the Treaty to provide, nor could it be provided, that either of the Contracting Powers should seize the Ships or Goods of their own Subjects for contravening the said articles," and that consequently the trade in question was not illegal and could not be stopped except by some positive law.[2] Hence, until the outbreak of formal war with France, when the prohibition of all trade with the enemy would automatically take effect, or until Parliament had passed some law governing the matter, nothing could be done to prevent a patently injurious commerce, unless the colonies of their own accord legislated against it, or unless recourse were had to arbitrary military authority.

Already toward the end of 1754, the naval and military commanders had been instructed to put a stop to "the illegal correspondence" between the French and English colonies, to prevent such "dangerous Practices," which supplied the French with provisions and warlike stores.[3] These instructions were enforced,[4] and were renewed the following year a few days after Murray had given his opinion that the trade

[1] Better known as Lord Mansfield.

[2] B. T. Journals 63, April 11, 1755.

[3] Commodore Keppel's Instructions, Nov. 26, 1754, and Art. 10 of Braddock's Instructions. Am. and W.I. 74.

[4] B. T. Nova Scotia 15 H 257 gives a detailed and interesting account of the seizure of a Boston vessel by a man-of-war for illicit trade with the French at Louisburg in 1754.

was not illegal. Boscawen received orders to prevent this trade,[1] and the secretary of state wrote to Braddock to observe particularly this clause in his instructions, especially as regards the inhabitants of Pennsylvania and New York who were reported to be "most notoriously guilty of supplying the French with Provisions." [2] The illegality of these instructions is obvious, as no formal war existed and as no British law prohibited this trade. This step, however, aroused no opposition, since nearly all the colonies, largely on their own initiative, had themselves adopted measures to prevent the French from being supplied with provisions.

A cessation of trade with the French unquestionably meant a great sacrifice on the part of the colonies, but on the other hand they recognized that France hemmed them in, and that their expansion westward was contingent on the expulsion of this power from America. It was patent that while the sale of provisions to Canada enriched some individuals and the colonies as a whole, it tended in the end to their destruction. If on the one hand the sacrifice demanded was great, on the other still greater was the danger in strengthening to any degree whatsoever the position of France. Accordingly, the colonies, to a large extent on their own initiative, adopted measures to prevent the exportation of supplies and warlike stores to the French. In 1755, Dinwiddie laid an embargo on provisions in Virginia, solely as an example to the other colonies, no supplies being exported from that

[1] Art. 8 of the secret instructions to Boscawen, April 16, 1755. Am. and W.I. 74.

[2] Sir Thomas Robinson to Braddock, April 16, 1755. *Ibid.*

colony to the French.[1] Similarly, in the same year, Pennsylvania prohibited the sailing of any vessel with provisions unless bond had been given to carry them to a British port.[2] Massachusetts likewise passed several acts of this nature.[3] In 1755, New York interdicted the exportation of provisions, naval or warlike stores to Cape Breton or to any other French possession,[4] and Maryland passed a law forbidding all trade with the French and their allies.[5] These and other colonial laws, together with the embargo that was laid in Ireland, Shirley wrote, "have greatly distress'd the French at Louisbourg, & the Effects must be soon felt in all their Settlements in North America."[6]

In the following year, on the declaration of war with France, all trade with the French colonies became by this very fact illegal, and ships engaged therein were, together with their cargoes, liable to seizure and confiscation. In June, 1756, full instructions to this effect were sent to the colonies.[7] As pointed out, a number of them had already passed laws forbidding this trade; these laws were continued and strengthened, and in general similar measures were adopted by the other colonies.[8] By a perpetual law, New

[1] B. T. Va. 25 W 170. [2] B. T. Proprieties 19 V 155.

[3] Mass. Laws, 18 Geo. II, c. 3, c. 4, and c. 8 in B. T. Mass. 74. See also Mass. Acts and Resolves.

[4] B. T. N.Y. 32 Kk 62.

[5] Sharpe to Henry Fox, July 17, 1756. Am. and W.I. 70.

[6] Shirley to Robinson, June 20, 1755. Am. and W.I. 68. This is confirmed by DeLancey. B. T. N.Y. 32 Kk 62. See also Shirley to Robinson, Aug. 15, 1755. Am. and W.I. 82.

[7] B. T. Journals 64, May 20 and June 1, 1756; B. T. Plant. Gen. 15 O 146.

[8] B. T. Journals 64, Aug. 5, 1756; Dobbs to Henry Fox, July 12, 1756.

Hampshire imposed a death penalty on all guilty of trading with the French.[1]

The prohibition of all direct trade with the French could not, however, give Great Britain any marked advantage over the enemy, as provisions could still be legally shipped from Ireland and from the American colonies to the islands of the neutral powers in the West Indies, whence they could be transported to the French colonies. This trade centred in the Dutch commercial emporia, Curaçoa and St. Eustatius, and tended to neutralize the advantage derived from the control of the sources of supply in Ireland and America. Connecticut officially informed the secretary of state that it was probable the French would be supplied from Ireland by way of St. Eustatius.[2] The governor of New York, Sir Charles Hardy, gave more specific information regarding this trade,[3] and at the same time sought to induce the neighboring colonies to desist from engaging therein. He took measures to prevent the direct or indirect exportation of provisions and warlike stores from New York to the French, but he was

Am. and W.I. 70; Fitch to Henry Fox, Sept. 29, 1756. *Ibid.;* B. T. Journals 67, p. 86. On March 13, 1756, Henry Fox addressed a circular letter to the colonial governors stating that "the King would have you recommend it in the strongest manner to your Council and Assembly, to pass effectual Laws for prohibiting all Trade and Commerce with the French, and for preventing the Exportation of Provisions of all kinds to any of their Islands or Colonies." N.J. Col. Doc. VIII, Part II, pp. 211, 212; N.Y. Col. Doc. VII, p. 76.

[1] B. T. New Hampshire 4 C 3. *Cf.* Wentworth to Fox, Sept. 2, 1756. Am. and W.I. 70 and B. T. New Hampshire 3 B 86.

[2] Fitch to Fox, Sept. 29, 1756. Am. and W.I. 70.

[3] B. T. Journals 64, Aug. 5, 1756.

unable to persuade the governors of the other colonies to adopt the same expedients. This, as he pointed out, was fatal to his purpose, for it was useless to enforce such a prohibition in New York if its neighbors were not placed under the same restrictions.[1] This vitally important question seriously engaged the attention of the British government.[2] On receipt of the information, the Board of Trade imparted it to the secretary of state.[3] The Lords of the Admiralty also wrote to Fox that preparations were being made to ship large quantities of supplies from Ireland to France in neutral ships in order to provision her navy and the French West Indies, and they suggested as a remedy that an embargo be laid in Ireland.[4] The military situation was a most critical one, and the government could not afford to abandon any advantage that Great Britain had in the struggle with France. The expressed intention of the government was to distress "the French, particularly in North America by a Want of

[1] Hardy, Oct. 13, 1756. B. T. N.Y. 33 Ll 55. *Cf.* also Fox to Hardy, Aug. 14, 1756. Am. and W.I. 75.

[2] B. T. N.Y. 33 Ll 55.

[3] Board of Trade to Henry Fox, Aug. 5, 1756. B. T. Plant. Gen. 15 O 143. On Aug. 14, 1756, Henry Fox wrote to Hardy that the shipping of provisions from Ireland to the Dutch West Indies, to which Hardy had called attention, would be looked into, and would be discouraged as much as was possible, but that it would be difficult to act in this particular, "and perhaps be found impracticable." Am. and W.I. 75.

[4] Admiralty to Henry Fox, Sept. 15, 1756: In order that this measure may be attended with as little inconvenience as is possible, "we humbly propose that the king will allow us to direct the commissioners for victualling to contract in Ireland for provisions for victualling the fleet in the Mediterranean." B. T. Plant. Gen. 15 O 143.

Provisions";[1] in order to attain this end, the exportation of provisions from Ireland and the American colonies to the Dutch possessions in the West Indies had to be stopped. Accordingly, Fox instructed the Duke of Devonshire, then Lord-Lieutenant of Ireland, to lay an embargo on all ships and vessels bound with provisions from Ireland to neutral ports, and at the same time he forwarded to the Commissioners of Trade the king's commands that they should send similar instructions to the colonial governors in America.[2] On October 9, 1756, the Board of Trade sent a circular letter to the colonial governors instructing them to lay an embargo on all ships and vessels clearing with provisions from any place in the colonies, unless they were bound for some British colony. In that case bonds were to be demanded obligating these vessels to go to the destination indicated in their papers.[3] This action supplemented that of the commander-in-chief in America, Loudoun, who had already, on August 20, 1756, written to the colonial governors requiring them "in Consequence of his Majesty's Positive Orders" to prohibit the exportation of provisions, because the French might be supplied thereby, and because, in addition, the possibly ensuing scarcity on the continent might hamper British military operations.[4]

These instructions received the cordial support of a number of the colonies. Connecticut had, even before the

[1] Henry Fox to the Board of Trade, Oct. 2, 1756. B. T. Plant. Gen. 15 O 144.

[2] B. T. Plant. Gen. 15 O 143; B. T. Journals 64, Oct. 1 and 8, 1756.

[3] B. T. Plant. Gen. 44, p. 123.

[4] Am. and W.I. 83.

receipt of the Board of Trade's letter, passed an act obliging all masters of vessels to give bond not to land provisions except in a British port, and had in addition laid an embargo on all shipping in that province.[1] The colonies were, however, not a unit in obeying these orders. Thus, despite the protest of the governor, the Pennsylvania legislature adhered to a bill "confining the Restraint & Prohibition to America only, leaving Vessels at Liberty to sail to any Neutral Ports in Europe."[2] Violations of the instructions were frequent, and as in addition the embargo in Ireland was not effective,[3] the French continued to be supplied with food-stuffs. Thus, in the summer of 1757, there was a scarcity of provisions in the Leeward Islands due, on the one hand to the embargo in the continental colonies, and on the other to the fact that these colonies had sold their supplies to the French by way of St. Eustatius.[4] Hardy reported that a cargo of flour and provisions was shipped from Antigua to Curaçoa, the flour being concealed in claret casks.[5] Such

[1] B. T. Prop. 20 W 2. For the attitude of Maryland, see B. T. Prop. 19 V 195; for New York, B. T. N.Y. 33 Ll 83, and B. T. Journals 65, Feb. 15, 1757; for New Hampshire, B. T. N.H. 3 B 86; for Massachusetts, Spencer Phips to Henry Fox, Dec. 21, 1756. Am. and W.I. 70.

[2] William Denny to Thomas Penn, April 8, 1757. Am. and W.I. 71. See also B. T. Prop. 20 W 3. The assembly claimed that a cessation of this trade would ruin Pennsylvania.

[3] On July 20, 1757, Admiral Frankland wrote to Governor Thomas of the Leeward Islands: "It is Notorious that in the last Cork Fleet Eight Vessels Laden with Provisions dropped the Convoy and went into that Island (St. Eustatius) for the French Market." B. T. Leeward Isles 32 Cc 6.

[4] *Ibid.*

[5] Sir Charles Hardy to Pitt, March 11, 1757. Am. and W.I. 71. See also B. T. Journals 65, April 20, 1757, and B. T. N.Y. 33 Ll 97.

violations were, however, more frequent in the continental colonies.[1] Rhode Island especially paid no respect to the orders from England.[2] Loudoun wrote to Pitt that the traders in this colony were "a lawless set of smuglers, who continually Suply the Enemy with what Provisions they want, and bring back their Goods in Barter for them." [3]

The Board of Trade had evidently anticipated that these instructions, even though issued expressly on the authority of the Crown, would not be sufficient. At their meeting on January 12, 1757, the Commissioners discussed this matter, and agreed on the necessity of an act of Parliament that should prohibit the exportation of all food-stuffs (except fish and rice) from the British colonies in America.[4] James Oswald, a member of the Board and also of Parliament, was instructed to bring this matter to the attention of the House of Commons.[5] The suggestion met with the approval of

[1] Hardy to Board of Trade, June 14, 1757. B. T. N.Y. 34 Mm 8. See also affidavits, *Ibid.* Mm 9–12.

[2] DeLancey to Board of Trade, June 3, 1757. *Ibid.* Mm 3.

[3] May 30, 1757. Am. and W.I. 85.

[4] The subject was naturally considered of utmost importance. Thus, on Feb. 4, 1757, the Board of Trade wrote to Charles Pinfold, the governor of Barbados: "The opportunity, which the Enemy has had in time of War in supplying themselves with Provisions by means of the Trade carried on in that Article from Ireland and our Colonys to the Dutch, and other neutral settlements, has long been the subject of much complaint and the source of great Mischief and Inconvenience, to remedy which a Bill is now under the Consideration of Parliament, which We hope will prove effectual." B. T. Barbados 55, p. 311. The various military commanders were carefully instructed to carry out this policy. See, *e.g.*, § 5 of draft instructions to James Abercromby, Dec. 30, 1757. Am. and W.I. 75.

[5] B. T. Journals 65, Jan. 12, 1757.

Parliament, which in 1757 passed an act prohibiting, during the war with France, the exportation of all provisions (except fish and roots, and rice under the already existing restrictions)[1] from the colonies to any place but Great Britain, Ireland, or some British colony. The penalties for violating this law were confiscation of the ship and cargo, heavy fines, and also possible imprisonment for the master of the ship.[2]

In order to make this policy of distressing the French more effective, Parliament in the same session also prohibited for a limited time the exportation of grain [3] and its manufactured products from Great Britain and Ireland except to the British colonies.[4] This restraint on the English producer did not, however, imply the same economic sacrifice as did that laid on the colonies, because England was becoming a less and less important factor in the grain export trade. In fact, Parliament [5] at this very time sought even

[1] Rice could be exported directly only to Great Britain and her colonies and to ports in Europe south of Cape Finisterre.

[2] A fine of twenty shillings for every bushel of grain and every pound of beef, pork, and other victual, "which said penalties and forfeitures shall be recovered in the high court of admiralty, or any other chief court of civil or criminal jurisdiction, in such respective colonies or plantations." The master knowingly guilty could be imprisoned for three months. Bonds had to be given, in treble the value of the cargo, that it would be taken to its declared destination. 30 Geo. II, c. 9. As England was anxious to secure the neutrality of Spain during the war, on Aug. 9, 1757, an order in council was issued allowing the inhabitants of New York, during the Crown's pleasure, to export provisions to St. Augustine. B. T. Journals 66, Nov. 3, 1758.

[3] Corn, malt, meat, flour, bread, biscuit, and starch.

[4] 30 Geo. II, c. 1, continued to Dec. 24, 1758 by 31 Geo. II, c. 1.

[5] 30 Geo. II, c. 7, continued to Dec. 24, 1758 by 31 Geo. II, c. 1. See also 30 Geo. II, c. 14. The import duties on corn and flour were discontinued for a limited time; in addition the Navigation Act was relaxed, allowing corn

to encourage the importation of food-stuffs into Great Britain.

In addition to the general rule forbidding all trade with the enemy and the act of Parliament of 1757 forbidding the exportation of food-stuffs from the colonies to foreign ports, temporary general embargoes were at various times laid in the colonies, partly with the object of preventing the French from being supplied, and partly for military purposes. In 1757 Loudoun laid such an embargo, which, however, had to be raised on account of the failure of the crops in Great Britain and Ireland, and the consequent need of provisions there.[1] The following year also, Abercromby, acting on instructions from Pitt, adopted the same expedient, preparatory to the Louisburg expedition.[2]

As the act of Parliament of 1757 did not prohibit the exportation of beef and pork from Ireland to neutral ports, and as these were the chief food-stuffs in that kingdom, at various times also recourse was taken to embargoes there.[3]

to be imported in neutral ships. 30 Geo. II, c. 9, § xiv; B. T. Plant. Gen. 44, p. 130; B. T. Journals 65, March 2, 1757.

[1] Holdernesse to Loudoun and to colonial governors, both May 2, 1757. Am. and W.I. 75; N.J. Col. Doc. VIII, Part II, p. 248. In future such embargoes were not to apply to ships bound for Great Britain and Ireland. Eight ships of Snell & Co. had been held at New York and Philadelphia, and were not allowed to proceed to Ireland with their cargoes of wheat and flour. B. T. Plant. Gen. 44, p. 134 and *Ibid.* 15 O 153. This embargo was laid by Loudoun mainly with the object of obtaining sufficient transports to move his troops to Halifax. Sir Charles Hardy to John Clevland, May 3, 1757. Adm. Sec. In-Letters, Bundle 481.

[2] Pitt to Abercromby, Jan. 11, 1758. Am. and W.I. 76. Abercromby to Pitt, May 27, 1758. *Ibid.* 87. See also *Ibid.* 71 *passim*, and B. T. Mass. 76 Ii 47.

[3] Bedford Correspondence II, p. 369; Pitt Correspondence II, p. 79; Calendar Home Office Papers, 1760–1765, nos. 484, 493, 522, 526, 552, 559, 579.

CHAPTER VI

COLONIAL TRADE WITH THE ENEMY, 1756–1763

THESE various measures to prevent France from getting Irish and American provisions were by no means fully effective. In 1757, a number of vessels that had sailed from Ireland with provisions for the West Indies parted from the convoy, and took a large quantity of beef to St. Eustatius. This was immediately sent to the French in Martinique and Santo Domingo, and enabled them to fit out their vessels.[1] In 1758 it was stated that no less than fifty to sixty thousand barrels of provisions had gone or were going from Ireland to this Dutch colony,[2] their ultimate destination being the French West Indies.[3]

[1] William Wood (Commissioners of Customs) to John Clevland (Lords of Admiralty), Oct. 28, 1757. Adm. Sec. In-Letters, Bundle 3866. These were 14 ships with 20,000 barrels of beef.

[2] An intercepted letter from Waterford, Ireland, dated Jan. 26, 1758. B. T. Leeward Isles 32 Cc 24.

[3] Governor Thomas to Board of Trade, May 18, 1758. B. T. Leeward Isles 32 Cc 22. On Jan. 7, 1758, Governor Pinfold of Barbados wrote to the Board of Trade that the French obtained provisions from Ireland and St. Eustatius. He also added: "I have good Intelligence that in Cork Numbers of Dutch Vessels lade with Beef & publickly declare it is to be carried to the West Indies, all of which is destined for the French Islands." B. T. Barbados 35 Ee 16.

In the British colonies, both in the West Indies and on the continent, similar practices prevailed. The temptation to engage in this trade was very great. In time of peace the foreign West Indies furnished a large market for the surplus agricultural products of the British continental colonies, and also provided them with cheap molasses, which, when converted into rum, was a most important factor in the fisheries, in the slave trade, and in the fur trade with the Indians. In time of war this normally profitable trade became even more lucrative. The French West Indies suffered from a scarcity of provisions, and hence were willing to pay high prices for them.[1] On the other hand, owing to the war, they had great difficulty in marketing their produce, such as sugar and molasses, and hence were forced to sell them at moderate prices.[2]

These conditions were the direct results of British sea power, which seriously interfered with the communications between the metropolis and the colony. France could not send provisions to the West Indies, and they, in turn, could not send their produce to the European markets. To a large extent, the colonies neutralized the advantages arising from British naval activity, both supplying the French colonies with the

[1] From St. Eustatius, May 12, 1757, Samuel Wells wrote to his father, Francis Wells, at Boston, that "the voyages from America now to these Islands must be very profitable to those that voyage in (them.) at present every kind of Northern produce bear a great rate." B. T. N.Y. 34 Mm 14.

[2] Extract from a letter dated Philadelphia, December, 1759, showing that the price of French sugar was very low, muscovado at 8*s*. to 10*s*. a hundredweight, white at 15*s*. to 25*s*. a hundredweight. B. T. Plant. Gen. 16 P 20. *Cf.* also B. T. Jam. 37 Cc 19.

sorely needed provisions,[1] and also furnishing a market for their produce.

In the opening years of the war the colonies carried on this trade in two ways, either directly with the French, or indirectly with them through some neutral port in the West Indies.[2] The direct trade was carried on with the connivance of the French officials, as it furnished them with otherwise unobtainable supplies. The colonial ships engaged in it were not seized by the French cruisers and privateers, because in general, they had "Lycences from the French Governors who refused them to none that applied for them."[3]

[1] A letter from the French West Indies in 1758, which had been taken in a French prize, clearly shows this: "Nous sommes tous les jours à la veille de manquer, sans le secours de nos Ennemis nous serons obligez de vivre comme vous nous l'annoncez avec ce que nous fournit la colonie. La Condition est dure, et l'on n'y resisteroit pas; nous sçavons bien qu'il est impossible au Commerce de France de nous secourir, tout est abandonné et La Cour ne pense pas à nous." B. T. Va. 26 X 41.

[2] On April 18, 1757, Governor William Popple of the Bermudas wrote to the Board of Trade, that a great many sloops built in the Bermudas were sold to the Dutch West Indies, and that the British register was transferred with the vessel. Thus the Dutch would be able to get provisions in the British colonies for the French. "Even now, thô Bond is given to Land Provisions at some English Settlement, the Dutch can go to Each English Settlement for once, give in Bond, and never return there again." B. T. Bermuda 19 O 51. An act of Parliament, 15 Geo. II, c. 31, § 1, was directed against such practices, yet there may have been some evasion of this law, with the result pointed out by Popple as probable.

[3] Sharpe to Pitt, Feb. 27, 1761. Am. and W.I. 73. Also in Sharpe Correspondence II, pp. 490, 491, and Pitt Correspondence II, p. 401. In 1759 Admiral Cotes pointed out that there was some danger in this trade, as a French frigate, newly arrived from Europe and unacquainted with its nature, had burnt nine North American vessels. The captain of this frigate was censured by the governor of Cape François for stopping the only channel by which they were regularly supplied with provisions. B. T. Plant. Gen. 16 P 20.

In addition, a large number of British colonial vessels engaged in this trade were protected by passes from the governors, authorizing them to go to the French colonies, ostensibly for the purpose of effecting an exchange of prisoners. Such vessels were popularly known as "flags of truce."

The British West Indian colonies participated[1] in this trade, though naturally to a less extent than did the continental colonies, where the provisions were originally produced. In 1757 Barbados passed a law making it high treason to trade with the French,[2] and in the following year the Governor of the colony wrote to the Board of Trade, that every care and precaution had been taken to prevent the enemy from being supplied.[3] Despite these measures, Commodore Moore discovered, in 1759, that St. Vincent, one of the neutral islands, which had become completely French, was constantly supplied with provisions from Barbados, and that this trade helped to support the other French Islands.[4] A number of ships engaged in this trade were seized by the navy, and measures were also taken to punish those guilty of violating the law.[5] These vigorous steps seem to have been effective in checking such practices in the West Indian colonies.[6]

[1] Wentworth, New Hampshire, Nov. 13, 1757, to Board of Trade. B. T. Plant. Gen. 49. *Cf.* B. T. Leeward Isles 32 Cc 6; B. T. N.Y. 34 Mm 13.

[2] B. T. Barbados 35 Ee 5, 6.

[3] *Ibid.* 35 Ee 16. Pinfold to Board of Trade, Jan. 7, 1758.

[4] Moore to Pitt, October, 1759. Am. and W.I. 100.

[5] Crump, Guadeloupe, Dec. 26, 1759, to Pitt. *Ibid.* Pinfold to Board of Trade, May 29, 1760. B. T. Barbados 36 Ff 1.

[6] The trade was also not unknown in Jamaica. In 1758 a "flag of truce" of that island, loaded up to the hatches, was seized by a privateer. B. T.

In the continental colonies, this direct trade with the enemy was extensively carried on, especially by Rhode Island and Pennsylvania, though it was by no means confined to them. In many instances the colonial vessels were protected from seizure by commissions or other documents in the nature of passes issued by the governors, constituting them "flags of truce," for the ostensible purpose of effecting an exchange of prisoners. Although at the beginning these passes may have been used for the legitimate purpose of exchanging prisoners,[1] their issue soon became a crying evil. All pretence of legitimacy was abandoned, and, as in the previous war, colonial merchants eagerly sought to obtain from the governors these documents, under cover of which, with one or two French prisoners on board, they could with safety to themselves carry on a lucrative trade with the enemy. The Lieutenant-Governor of Virginia reported that he was offered four hundred guineas, if he "would license a Flag of Truce." [2] The most scandalous conditions prevailed in Pennsylvania, where Governor Denny openly sold such passes. When bringing these facts

Va. 26 X 41. See also the first memorial enclosed in Holmes to Pitt, Jan. 4, 1761, which states that Jamaica sent money to the enemy, while the Northern colonies sent provisions, and that the navy had entirely stopped this flag of truce trade from Jamaica. Col. Corr. Jam. II. Robert Melvill, the Lieutenant-Governor of Guadeloupe, wrote to Pitt, Dec. 15, 1760, that he had made two seizures in frustrating attempts to send provisions from that island to Martinique. Am. and W.I. 100.

[1] *Cf.* Hopkins, governor of Rhode Island, to Pitt, Dec. 20, 1760. Am. and W.I. 73.

[2] Fauquier to Pitt, Oct. 28, 1760. Am. and W.I. 72. *Cf.* also Burnaby, Travels (ed. R. R. Wilson), p. 129 n.

to Pitt's attention in 1759, Thomas Penn[1] said that the Delaware River at Philadelphia swarmed "with shallops unloading these illegal cargoes, brought at their return, and cheating the King of his dutys,[2] besides carrying provisions and ready money to the Enemy." At first Denny sold these licenses in small numbers, and under the pretence of transporting French prisoners, though all such prisoners could have been embarked in one or two vessels at the most. At the outset also the governor received large sums for these passes, but as the number issued increased their value fell; and finally "he scrupled not to set his name to, & dispose of great numbers of blank flags of Truce, at the low price of twenty pounds sterling or under, some of which," as his successor James Hamilton, wrote, were sold in 1759 "from hand to hand at advanced prices." In 1759 and 1760, "a very great part of the principal Merchants" of Philadelphia were engaged in this trade with the French West Indies.[3] In a number of the colonies, the governors refused to issue flags of truce. Fauquier in Virginia[4] and Wentworth in New Hampshire[5] did not issue any, and though Pownall in Massachusetts granted two, they were

[1] Sept. 12, 1759. Am. and W.I. 72.

[2] The duties were those imposed by the Molasses Act of 1733.

[3] Hamilton to Pitt, Nov. 1, 1760. Am. and W.I. 72. In a private letter from Philadelphia, December, 1759, the writer said of this trade, 'there are among us some who think it illegal, while others of larger consciences practise it profitably.' B. T. Plant. Gen. 16 P 20.

[4] Fauquier to Pitt, Oct. 28, 1760. Am. and W.I. 72. *Cf.* also B. T. Va. 27 Y 14.

[5] Wentworth to Pitt, Dec. 9, 1760. Am. and W.I. 73. Wentworth wrote that he probably could have made a good deal of money by issuing them.

for the legitimate exchange of prisoners.[1] Connecticut also asserted its freedom from participation in such practices.[2] Rhode Island, on the other hand, was deeply implicated.

In 1757 Rhode Island traded directly with the French in Santo Domingo,[3] and in the following year it was asserted that a regular trade in provisions was carried on from that colony to the French West Indies by means of "cartel ships," carrying a few prisoners and protected by flags of truce.[4] Stephen Hopkins,[5] the colonial governor, in the course of a detailed exculpatory despatch to Pitt, said that in the first four years of the war thirty-two Rhode Island vessels had sailed to the French colonies for the purpose of exchanging prisoners. A colonial law authorized the governor to issue commissions for this purpose, but expressly forbade the exportation of provisions and warlike stores. Hopkins asserted that the colonial officials had not connived at any violations of this law, but he frankly admitted that these Rhode Island "flags of truce" took lumber and "Dry Goods of British Manufacture" to the French colonies, bringing back molasses and some sugar. Hopkins finally added: "It must be confessed 'tis highly probable, that some Vessels from this Colony as well as from others, have taken in Cargoes under Pretence of being bound to Jamaica," and have then

[1] Bernard to Pitt, Nov. 8, 1760. Am. and W.I. 72.

[2] Thomas Fitch to Pitt, Nov. 26, 1760, and April 25, 1761. Am. and W.I. 73.

[3] B. T. N.Y. 34 Mm 14.

[4] Fauquier to Board of Trade, Sept. 23, 1758. B. T. Va. 26 X 41; B. T. Journals 66, Dec. 12, 1758.

[5] Dec. 20, 1760. Am. and W.I. 73.

sold them to the French in Santo Domingo. At the time, it was generally asserted that this direct trade with the enemy was openly carried on by Rhode Island.[1]

In addition to this direct trade with the enemy, carried on under cover of flags of truce or with the connivance of the French authorities, the colonies, and Ireland as well, exported large quantities of provisions to the neutral ports in the West Indies. St. Eustatius was the chief centre of this trade and became an important source of supply for the French.[2]

According to British law, provisions were in general deemed contraband of war, and especially so in a case like this, because they enabled the French to fit out their fleets and privateers, and because, in addition, they relieved settlements which were in continual danger of being forced to surrender through starvation.[3] Besides, in a number of

[1] Sharpe to Pitt, Feb. 27, 1761. Am. and W.I. 73. On May 9, 1761, Francis Bernard wrote to the Board of Trade: "These practises will never be put an End to, till Rhode Island is reduced to the subjection of the British Empire; of which at present it is no more a part than the Bahama Islands were when they were inhabited by the Buccanneers." B. T. Mass. 78 Ll 16.

[2] The Dutch purchasers of these provisions in St. Eustatius furnished the colonial vessels with forged or fraudulent landing certificates, which were used to cancel the bonds given in the British colonies not to take their cargoes to a foreign port. B. T. N.Y. 34 Mm 14.

[3] In 1746 the British High Court of Admiralty declared that "provisions are and always have been esteemed contraband." F. T. Pratt, Law of Contraband of War (London, 1856), p. 93. *Cf.* also the judgment of Sir William Scott in the "Jonge Margaretha," 1799. C. Robinson, Reports of Cases in the High Court of Admiralty (Philadelphia, 1800), I, p. 163. Holland did not admit this definition of contraband, which was opposed to the treaties she had concluded with England. See Am. and W.I. 54, no. 124.

instances, the Dutch vessels went to the French colonies under convoy of French men-of-war. Thus on November 30, 1758, Governor Thomas of the Leeward Islands wrote to the Board of Trade, that three fleets of Dutch vessels had in the last four months gone in this manner to Martinique, and he claimed, that without them the French would have been reduced to great distress and could not have fitted out their privateers.[1] Furthermore, in return for provisions, the Dutch took French produce which they carried to Europe.[2]

In normal times, France did not as a rule allow foreigners to trade with her colonies. During the war, French colonial trade was for the time being opened to Dutch vessels, owing to the supremacy of Great Britain at sea. This measure was not one "of *French* councils, but of *British* force." The British prize courts proceeded to condemn all such vessels engaged in this trade, contending that a neutral power could not engage in a trade which was opened to them only by "the pressure of war." This general doctrine is known as the "Rule of 1756." [3] Proceeding on these

[1] B. T. Leeward Islands 32 Cc 35. In an intercepted letter from the Governor of St. Eustatius to the Governor of Martinique, March 14, 1758, we read: "Je me flatte d'ailleurs, Messieurs, que dans un cas un peu douteux, vous voudrés bien avoir Egard à la façon dont je me suis porté à fournir des vivres á Vos Colonies, dans le tems même ou les Anglois insultoient le plus notre pavillon." *Ibid.* Cc 23. See Commodore Moore's despatch to Pitt from Guadeloupe, March 6, 1759, to the effect that, as the Dutch were very assiduous in assisting the enemy, he had sent ships to cruise off St. Eustatius to prevent provisions being sent thence to Guadeloupe, whose complete conquest had not yet been effected. Am. and W.I. 100.

[2] *Ibid.* Cc. 6.

[3] This rule was based on legitimate considerations, which are admirably expounded in a judgment of the famous jurist, Sir William Scott, in the case

general principles, the British navy in the West Indies seized Dutch vessels carrying provisions to the French colonies, and also Dutch vessels taking produce away from them.[1] These seizures created a great deal of friction between the English and the Dutch.[2] Their general effect, however, was to break up the Dutch trade with the French colonies,

of the "Immanuel," 1799: "It cannot be contended to be a *right* of neutrals, to intrude into a commerce which had been uniformly shut against them and which is now forced open merely by the pressure of war; for when the enemy, under an entire inability to supply his Colonies and to export their products, affects to open them to neutrals, it is not his will but his necessity that changes his system; that change is the direct and unavoidable consequence of the compulsion of war, it is a measure not of *French* councils, but of *British* force." Robinson (Am. ed.) II, pp. 167, 168.

[1] The general contention of the British government was that, "in the present War between England and France, the Subjects of Holland have no Right to cover the Property of the Enemy of England, going to, or coming from the Colonies of that Enemy, directly, nor indirectly to do it, thro' the Medium of the Dutch Colonies; nor to carry to the Colonies of France directly, nor indirectly, any Commodities, altho' Neutral Property, which have a Tendency to support the Enemy." James Marriott, The Case of the Dutch Ships Considered (3d ed. London, 1759), p. 1. Marriott was at a later date judge of the admiralty court. See also The Annual Register for 1759 (5th ed. London, 1769), p. 5; A Letter to the Dutch Merchants in England (London, 1759), pp. 4, 18 (this pamphlet is attributed to Marriott); Authentic Memoirs of Chatham (London, 1778), pp. 19, 20.

[2] To the frequent complaints of the Governor of St. Eustatius that the capture and condemnation of Dutch vessels bound with provisions to the French islands was contrary to the treaties subsisting between Great Britain and Holland, Governor Thomas of the Leeward Islands replied, that if the condemnations were deemed unjust, an appeal could be taken to his Majesty in Council. B. T. Leeward Islands 32 Cc 22. The documents regarding this matter were sent to Pitt by the Board of Trade, July 26, 1758. *Ibid.* 57, pp. 124, 125, 130. For the activity of the British fleet, see *ibid.* Cc 35 Curaçoa was less concerned in this trade than was St. Eustatius. Up to a short time before the end of the war, only seven vessels from Curaçoa had been

and with it the exportation of provisions from Ireland and the British colonies to Dutch ports. Being deprived of their Dutch market,[1] the continental colonies sought access to the French by other means, and in the years 1759 and 1760 there developed an important trade with Monte Cristi, a Spanish settlement in the island of Hispaniola or Santo Domingo.[2]

Both France and Spain had colonies in this island. Monte Cristi is situated on its north shore in the Spanish part, contiguous to the French boundary. Prior to the war, this commercially insignificant place had been closed to foreigners, but subsequently it was made a free port,[3] for the purpose

condemned in Jamaica for trading with the French West Indies. Col. Corr. Jam. II, May 10, 1762. For the decisions on appeal in England in these cases, see Grenville Papers I, pp. 270, 283, 284, 296.

[1] On March 28, 1759, Lieutenant-Governor Henry Moore of Jamaica wrote to the Board of Trade that the squadron had put an end to the commerce between the French and the Dutch, and that this branch of trade was then taken up by the Northern colonies. B. T. Jam. 34 Z 43. The trade through the Dutch channel, however, did not cease entirely. See Bradley to Amherst, Dec. 5, 1760. Am. and W.I. 73 and 95.

[2] The first mention of this trade is in DeLancey's despatch to the Board of Trade, June 3, 1757. B. T. N.Y. 34 Mm 3. Nothing further was heard until two years later, when the Board of Trade said that its first information regarding this trade came from a despatch from the Lieutenant-Governor of Jamaica, March 28, 1759. B. T. Journals 67, p. 231. See also B. T. Plant. Gen. 44, p. 179; B. T. Jam. 34 Z 43. Colebrooke's report of Feb. 18, 1760, says that this trade had been carried on since the beginning of the war, but in no proportion to what it was in 1759 and 1760. B. T. Plant. Gen. 16 P 17.

[3] Shirley, in his despatch to the Board of Trade, March 29, 1760, says it was a new Spanish settlement. Am. and W.I. 454. The second memorial enclosed in Holmes to Pitt, Jan. 4, 1761, says: "There is here No City, No Town, No Port," only a few huts; the place has no trade of its own, and "the Newly established free Port of Monto Christi . . . exists no where, but in the

of facilitating the trade between the British and French colonies. Nothing was produced here that the English colonies wanted,[1] nor did the few Spaniards residing at the place afford a market for provisions. The exports from Monte Cristi were all French produce,[2] and its imports all went immediately to the adjoining French colony. The Spanish governor collected fees from the vessels, gave them clearances, and charged duties on the sugar and molasses exported.[3] But the trade was essentially a direct one with the French.[4] In many instances the French produce was not even landed in Spanish territory, but was transferred from small French boats directly to the British vessels in the harbor.[5] The products brought to Monte Cristi were provisions, warlike stores, British manufactures and money.[6]

airy Regions of Imagination." Col. Corr. Jam. II. It should, however, be noted that already in 1562 John Hawkins sailed "to Monte Christi another port on the North side of Hispaniola." Hakluyt X, p. 8.

[1] The only Spanish produce that could be obtained here was tobacco and hides. Hinxman's report in Holmes to Pitt, May 31, 1761. Col. Corr. Jam. II.

[2] B. T. Jam. 34 Z 59.

[3] B. T. Bahamas 7 E 3; Hinxman's report in Holmes to Pitt, May 31, 1761. Col. Corr. Jam. II.

[4] See Memorial of Edward Long, Dec. 3, 1760. Col. Corr. Jam. II. Long was Judge of the Vice-Admiralty Court of Jamaica, and is the author of the well-known history of that island.

[5] B. T. Jam. 34 Z 59. *Cf.* also second Memorial in Holmes to Pitt, Jan. 4, 1761, in Col. Corr. Jam. II, and Holmes to Pitt, May 31, 1761, *ibid.* Holmes's despatch to the admiralty regarding this subject was likewise sent to Pitt. Cal. Home Office Papers, 1760–1765, p. 4.

[6] B. T. Bahama 6 D 87, 7 E 1; B. T. Plant. Gen. 16 P 17. It was said that the colonies were drained of money by this trade, as a cargo of sugar was more valuable than a cargo of provisions. B. T. Plant. Gen. 16 P 20. The North American vessels also brought horses, lumber, and fish. B. T. Jam. 34 Z 59.

The commodities exported were chiefly sugar and molasses.[1]

This trade at Monte Cristi was carried on mainly by the New England and Middle colonies,[2] but it was by no means

The average annual value of the importations from the North American colonies into Jamaica during the five years 1758 to 1762 was £200,000 Jamaica currency. The exports from Jamaica to these colonies amounted to only £50,000 yearly, the balance being paid in money or in bills of exchange, which the continental colonies used to purchase French produce at Monte Cristi. B. T. Jam. 37 Cc 19. In 1761 £10,000 Jamaica currency was equivalent to £7141 sterling. *Ibid.* Bb 41.

[1] B. T. Jam. 34 Z 44 and 59.

[2] According to a list of ships spoken by H. M.'s sloop *Viper* in Monte Cristi harbor, Feb. 5, 1759, 28 of the 29 ships there, ranging from 30 to 150 tons in burden, belonged to the North American colonies, and had cleared from them. They belonged to the following colonies: New York, 7; Rhode Island, 8; Connecticut, 4; Massachusetts, 8; Virginia, 1; and Bermuda, 1. The Virginia ship had put in on account of stress of weather. B. T. Jam. 34 Z 44. The success of the trade attracted others. On Oct. 25, 1760, H.M.S. *Defiance* anchored at Monte Cristi and remained there eight or nine days. The commander reported that there were always fifty vessels in the harbor, and that every day some left and some arrived. These vessels belonged to England, Ireland, Gibraltar, and the colonies, and in addition, mention is made of three vessels under the Danish flag. Second Memorial in Holmes to Pitt, Jan. 5, 1761. Col. Corr. Jam. II. The trial of a North American vessel engaged in this trade showed that Messrs. Greg and Cunningham of New York and Messrs. Hugh White and Co. of Dublin were heavily interested in it. Holmes to Pitt, no date but marked as received May 13, 1761. *Ibid.* Captain Hinxman, who had been sent by Holmes to investigate, reported that on his arrival at Monte Cristi he found in the port 42 British vessels and that 8 had arrived subsequent to his anchoring. Of these 50 vessels, 36 belonged to the North American colonies: Massachusetts, 15; Rhode Island, 10; New York, 9; Connecticut, 1; North Carolina, 1. The balance belonged to the West Indian colonies and to various places, such as London, 5; Edinburgh, 1; Ireland, 1; Gibraltar, 1. The colonial vessels brought provisions, the British manufactures; both took in return French products such as sugar and indigo. Holmes to Pitt, May 31, 1761. *Ibid.* For Danish ships carrying French colonial products to market, see Cal. Home Office Papers, 1760–1765, pp. 69, 77, 78.

unknown in Virginia [1] and in the West Indies.[2] In addition, British subjects in England, Scotland, and Ireland were implicated in it, though to a minor extent.[3] The trade assumed large proportions in 1759 and 1760. At times during these two years, over one hundred North American vessels were at this port.[4] In 1760 it was estimated that in that one year four to five hundred vessels had taken in cargoes of French sugar and molasses.[5] In order to facilitate the trade, North American subjects of the Crown resided at Monte Cristi.[6]

[1] Fauquier to Pitt, Oct. 28, 1760. Am. and W.I. 72. *Cf.* B. T. Va. 27 Y 14 and 111. Maryland, on the other hand, seems to have obeyed the act of 1757. B. T. Prop. 21 X 8. *Cf. ibid.* 20 W 26 and 27.

[2] One Allen Popham of St. Kitts was extensively engaged in this trade of sending provisions from Ireland and New York to St. Eustatius, St. Croix, St. Thomas, and Hispaniola. Bradley to Amherst, Dec. 5, 1760. Am. and W.I. 73 and 95.

[3] Colebrooke's report of 1760 says: "Policies of Insurance have been opened publickly in London to cover their risque, and at such high praemiums as imply consciousness of great hazard attending illegal adventures." B. T. Plant. Gen. 16 P 17. See also Sharpe to Pitt, Feb. 27, 1761. Am. and W.I. 73. Colden to Pitt, Dec. 27, 1760. *Ibid.* Report of the New York Council, Dec. 24, 1760. *Ibid.* In 1761 a small quantity of merchandise was entered for export direct from London to Monte Cristi. Customs Records (in Public Record Office), Ledgers of Imports and Exports, vol. 61.

[4] Governor George Haldane of Jamaica to Board of Trade, June 9, 1759, with affidavits to the effect that at times 100 to 120 North American vessels were at Monte Cristi. B. T. Jam. 34 Z 59. In 1760 it was said that as many as a hundred such vessels had been seen at one time there. B. T. Plant. Gen. 16 P 17. *Cf.* also Shirley to B. T., March 29, 1760, in Am. and W.I. 454; B. T. Bahamas 6 D 87; B. T. Journals 68 p. 175.

[5] B. T. Bahamas 7 E 1 and 3. Admiral Cotes said that more than 200 vessels had taken cargoes from Monte Cristi in 1759. B. T. Plant. Gen. 16 P 20.

[6] B. T. Jam. 34 Z 59.

In New York, where this trade to Monte Cristi was extensively[1] carried on, it monopolized much of the time of the Commander-in-Chief, as it interfered with the victualling of the forces.[2] The lieutenant-governor of this colony, James DeLancey, was very active in suppressing the illegal exportation of provisions. "Quantities of Flour," he wrote, "were clandestinely Exported to foreign Markets, particularly to Monti Christi, thence to Supply the French." Some of the offenders were discovered; whereupon Amherst wrote that this was "a secret Satisfaction" to him, and that he hoped they would be punished as they deserved. Despite DeLancey's efforts and the detection of some of those concerned "in this shamefull abuse," Amherst again received complaints of its being carried on to a very great extent; so much so that he feared that nothing but an embargo would put a stop to it. He was, however, opposed to such a step if it could possibly be avoided without making the army suffer from want of flour, and he urged the Governor to punish all delinquents most severely. While his efforts to do so were at least in part frustrated,[3] DeLancey's en-

[1] George Spencer to Amherst, Dec. 17, 1760, with a list of 46 New York vessels that had taken provisions to Monte Cristi and other foreign ports, and had returned to New York with French sugar which was entered on fictitious clearances. Augustus Bradley to Amherst, Dec. 18, 1760, with a similar list of 39 vessels. Am. and W.I. 95.

[2] See DeLancey to Amherst, Aug. 24, Oct. 22, Nov. 5, 1759; and Amherst to DeLancey, Oct. 2, 7, 29, 1759. Am. and W.I. 91 and 92. In New York, the fraudulent flag of truce trade was not practised, as neither Hardy nor De Lancey would countenance it.

[3] DeLancey to Amherst, Nov. 5, 1759: "My Proclamation against Heysham, I believe, gave some Check to the Exportation of Provisions; but De Peyster

ergetic action succeeded in checking the trade, though not in stopping it, and he was able to assure Amherst that at all events there would be in New York no scarcity of so essential an article as flour. DeLancey's fears as to the continuance of this trade were, however, justified. On his death in 1760, Cadwallader Colden, as president of the Council, became the acting governor. He frankly admitted that the New York merchants had been too generally concerned in this illicit intercourse, but added that the Philadelphia merchants were even more guilty.[1]

By these means British subjects, of whom an overwhelming majority lived in the North American colonies, supplied the French with provisions and afforded them a market for their

and Folliott have connections, the former with two of the Judges, and the Latter in the Custom house." Therefore he does not think that they will be made examples of; they have prevailed upon the witnesses to absent themselves; and he fears that this trade will continue.

[1] Colden to Pitt, Oct. 27, 1760. Am. and W.I. 72. The method of carrying on this trade in New York was to ship provisions in large quantities to the New England governments, "for which the Merchants give bond," as the act of Parliament directed. These bonds were in turn cancelled by landing certificates from New England. The provisions were then exported to the French, and French sugars were brought back to New England or to New Jersey, whence in turn they were imported into New York, with "cockets" to the effect that they had been legally imported. In addition, Colden said that he had no doubt that provisions were exported from places where there were no customs officers. See also Colden to Pitt, Nov. 11, 1760 (*Ibid.*), enclosing the custom-house accounts, illustrating the nature and method of this trade. This method implied great frauds in the customs service, which Colden laid at the door of the officers in New Jersey and New England. One Bradley sent him a copy of a letter from a firm in Norwalk, which had procured "numbers of fictitious clearances for Different Persons as Also their method & Price for doing it." Bradley to Amherst, Dec. 18, 1760. Am. and W.I. 95. In addition, Colden admitted that provisions were shipped from New York to the

produce,[1] thus to a great extent frustrating the policy of the mother country. In fact, according to Shirley, who had been transferred from Massachusetts to the Bahamas, provisions were more plentiful and cheaper in the French settlements than in the English West Indies, and in addition, the prices for French sugars rose violently on account of the broad market offered at Monte Cristi.[2] Not only did the enemy secure an otherwise unobtainable market for his produce, but in addition, the sugars purchased at Monte Cristi were shipped from the North American colonies to London and entered there as British sugars,[3] thus vitiating the preferential system which gave the products of the British West Indies a monopoly of the home market. Further-

Spanish and Portuguese wine islands off Southern Europe and Africa. This, though illegal, he contended did no harm, as all provisions thus exported were purely for local consumption in these islands. Colden to Pitt, Dec. 27, 1760. *Cf.* also B. T. Va. 27 Y 14. New Jersey, whose foreign trade was unimportant, apparently did not engage directly in this trade, at least not to a marked degree. Boone to Pitt, Aug. 23, 1760. Am. and W.I. 72.

[1] B. T. Jam. 34 Z 44.

[2] White sugar had risen from 18*s.* to 26*s.* a cwt., muscovado from 11*s.* to 17*s.* 6*d.* a cwt. Shirley to Board of Trade, Aug. 1, 1760. B. T. Bahamas 7 E 1. Governor Lyttelton said that on account of this trade provisions during the war were scarce and dear in Jamaica. B. T. Jam. 37 Cc 19. However, on Jan. 7, 1758, Governor Pinfold wrote to the Board of Trade that Barbados was plentifully supplied with provisions, the trade with the Northern colonies being kept open by the activity of the privateers. B. T. Barbados 35 Ee 16.

[3] These sugars were "entered as the produce of the island of Guardaloup," which had been captured in 1759. B. T. Plant. Gen. 16 P 17. French sugars were imported into New York under "the denomination of prize sugars & British Sugars from Guardaloup." Colden to Pitt, Nov. 11, 1760. Am. and W.I. 72. Shirley pointed out that in addition to the other advantages resulting from this trade, France derived a revenue from the export duties in Santo

more, as a result of this trade, the price of provisions rose rapidly in the North American colonies, especially in New York, so that at times it would have been cheaper to purchase in England the flour and bread needed for the troops employed in the colonies.[1]

Of minor importance, but by no means insignificant, was another branch of this illegal trade: that carried on with the French in Florida and Louisiana. New York and Pennsylvania did not, apparently, engage in this commerce, which, to a great extent, centred in New England.[2] A small number of colonial sloops constantly traded with New Orleans.[3] In addition, some trade, especially in Indian goods, was carried on by means of the Spanish with the French to the west of Florida. South Carolina was somewhat involved therein, but the chief offender was Rhode Island.[4] According to William Bull, the lieutenant-gov-

Domingo, while the duties that were imposed by the Act of 1733 on these products when imported into the English colonies were not paid. B. T. Bahamas 6 D 87. On June 13, 1760, the Board of Trade sent a copy of this despatch to Pitt. *Ibid.* 12, pp. 187–188.

[1] B. T. Plant. Gen. 16 P 17. *Cf.* also correspondence of DeLancey and Amherst. Am. and W.I. 91 and 92.

[2] Colden to Pitt, Oct. 27, 1760. Am. and W.I. 72. Hamilton to Pitt, Nov. 1, 1760. *Ibid.*

[3] In 1761 a sloop was seized at Boston for trading at New Orleans. The examination of the crew of this vessel brought out the fact that in addition to this, two other colonial sloops, one from Rhode Island, the other from Jamaica, traded regularly at New Orleans. Bernard to Pitt, May 5, 1761. Am. and W.I. 73; B. T. Mass. 78 Ll 14 and 19.

[4] On May 29, 1760, Bull wrote to the Board of Trade that the French were enabled to take advantage of the rupture with the Cherokees by the plenty of Indian goods with which they had been supplied by the Northern colonies, especially by the Rhode Island traders, who, being interrupted in their

ernor of that colony, it was the Indian goods thus acquired that enabled the French to keep their promises to the Indians, which, in turn, tended to encourage the Cherokees to keep up their war with the English and almost brought the Creeks to an open rupture.[1]

The military and naval commanders were naturally indignant at a trade which they considered "traiterous," and which interfered with the success of their operations. Toward the end of 1759 General Crump wrote to Pitt that the French islands subsisted entirely by this trade and by the prizes which they took, and that, during the last eight months, not a single vessel had arrived from Europe with provisions for them. If these practices were stopped, he added, it would facilitate any military designs on the colonies of the enemy.[2] Admiral Cotes called the trade iniquitous,[3] and Commodore Moore stigmatized those engaged in it as "Traitors to their Country."[4] It was claimed by those in the best position to judge of such matters, that this trade enabled the French to equip privateers, which inflicted much suffering, and that it prevented the capture of the French West Indies.[5]

traffic at Monte Cristi, "have found out a new, and more pernicious Channel for the Industry, by carrying Goods proper for Indians to Pensacola, or other parts, where the French at Louisiana can get them." B. T. So.Ca. 20 M 7.

[1] Bull to Pitt, Feb. 18, 1761. Am. and W.I. 73. With a view to obviating this result, Bull induced South Carolina to pass a temporary law regulating the exportation of goods needed for the Indian trade.

[2] Byam Crump, Guadeloupe, Dec. 26, 1759, to Pitt. Am. and W.I. 100.

[3] B. T. Plant. Gen. 16 P 20.

[4] Moore to Pitt, October, 1759. Am. and W.I. 100.

[5] B. T. Jam. 34 Z 43. Henry Moore, March 28, 1759.

Full reports were forwarded to Pitt, who characteristically expressed his sentiments in no uncertain terms. On August 23, 1760,[1] he addressed a circular despatch to the colonial governors, stating that he had received repeated and certain information "of an illegal and most pernicious Trade, carried on by the King's Subjects, in North America, and the West Indies, as well to the French Islands, as to the French Settlements" on the continent of America, by means of which the enemy is supplied with provisions and other necessaries, in consequence of which France is "principally, if not alone, enabled to sustain, and protract, this long and expensive War." Pitt instructed the governors to make strict inquiries into "the State of this dangerous and ignominious Trade," to bring "all such heinous Offenders . . . to the most exemplary and condign Punishment," and in general to put a stop to "such flagitious Practices." Pitt was unquestionably indignant, and this feeling was intensified by the fact that, as a result of the victories of Hawke and Boscawen, French sea power had been utterly shattered. The French West Indies were absolutely helpless, and relief from France was impossible. Guadeloupe had already fallen into English hands, and Martinique, Dominica, and the other "neutral islands" would inevitably fall when wanted, unless aided directly or indirectly by the English colonies.

The chief instrument used to break up this trade with the

[1] Am. and W.I. 78. On Nov. 1, 1760, Governor Hamilton of Pennsylvania wrote to Pitt that trading with the enemy must "from the very nature of War, be a very high offence." Am. and W.I. 72.

enemy was the royal navy.[1] Frequent seizures virtually put an end to the fraudulent flag of truce trade [2] and to the direct trade with the enemy.[3] The indirect intercourse by means of the Dutch colonies was also checked by the condemnation of the Dutch vessels engaged in trading with the French colonies. This indirect trade was then diverted to Monte Cristi. As this was a Spanish port, some legal difficulties were encountered in seizing vessels trading there. It was practically impossible to condemn colonial vessels carrying provisions to a foreign port in violation of the act of 1757, because their papers were always in order and indicated as their destination some British port. Nor, according to a strict interpretation of the "Rule of 1756," could colonial vessels trading at a neutral port, such as Monte Cristi, be condemned.

At the outset, in 1759, the navy proceeded to seize ships engaged in the Monte Cristi trade, but was deterred in this activity by the legal difficulties encountered in procuring their condemnation.[4] The Admiralty Court in England

[1] In 1757, Sir Charles Hardy, who was both governor of New York and a Rear-Admiral, advised the employment of cruisers to "intercept any Smuggling Trade that might attempt going to the Neutral Islands" with provisions. Hardy to Pitt, April 10, 1757. Am. and W.I. 71. At that time he seized a Salem vessel returning from St. Eustatius, and took it to Halifax where it was condemned in the Admiralty Court. B. T. N.Y. 34 Mm 13.

[2] B. T. Va. 26 X 41; Second Memorial enclosed in Holmes to Pitt, Jan. 4, 1761. Col. Corr. Jam. II.

[3] Hamilton to Pitt, Nov. 1, 1760. Am. and W.I. 72. Sharpe to Pitt, Feb. 27, 1761. *Ibid.* 73. First Memorial enclosed in Holmes to Pitt, Jan. 4, 1761. Col. Corr. Jam. II. Bernard to Pitt, Nov. 8, 1760. Am. and W.I. 72.

[4] B. T. Plant. Gen. 16 P 20; B. T. Jam. 34 Z 59 and 60.

held that "British Subjects have no Undoubted right of Trading at Monte Christi, provided they carry on their Trade *Bonâ Fide* with the Spaniards only." [1] The Judge of the Vice-Admiralty court of Jamaica contended, however, that the trade was not *bona fide*, that the Spaniards produced no sugar, molasses or rum; that the trade was virtually a direct one with the French; and that it certainly violated the spirit of the law.[2] The naval authorities supported this view. On January 4, 1761, Rear-Admiral Charles Holmes,[3] the commander at the Jamaica station, wrote to Pitt, that on his arrival he had instructed the ships of his squadron to break up this trade, as well as that carried on by flags of truce, but that he now found that many doubts had arisen in England concerning the legality of seizing and condemning the ships coming from Monte Cristi. "Shall others," he asked Pitt, "the subjects of Great Britain, concerned in this Trade, and Swearing with Halters about their Necks, if they bear witness to the Truth and Declare, that they keep Correspondence with the Enemy and not only Nourish and Support his Subjects in their Wants, but cover and carry on their Trade in a most prosperous and Successful Manner; Compeat with, or be opposed and Overthrow, the Certain Knowledge of His Majesty's Squadron, that there is Neither Port nor Commerce belonging to Spain, at Monte Christi, that the Commerce is wholly French; and that the Spaniards are only the Porters of this Trade, not into a Port, but into an open Bay and bare Road-

[1] Edward Long, Dec. 3, 1760. Col. Corr. Jam. II.
[2] *Ibid.*
[3] Col. Corr. Jam. II.

Stead?" Holmes added that he would obey whatever instructions he might receive, but he pointed out that "the Enemy Cannot be hurt here, if the Trade of Monte Christi, under any Colour or pretext whatever, be sustained as Legal"; that this trade was even worse than the flag of truce trade, for if British subjects were, by other means, forced to abandon it, the Dutch would take it up. He therefore hoped that his action in seizing the enemy's produce, wherever he could lay hold of it, would be approved. These arguments lead to the extension of the "Rule of 1756" to the Monte Cristi trade.[1]

The West Indian Vice-Admiralty courts proceeded to condemn these vessels, and ultimately their action was upheld in England. The question of the legitimacy of such seizures once settled, great zeal was displayed in breaking up the trade. Toward the end of 1760, the governor of New Jersey informed Pitt that the activity of the cruisers in the West Indies and "the Kind of Civil War that has been waged by Privateers on these Traders belonging to different Provinces" had made this intercourse so hazardous that it cannot be pursued "so universally or successfully as formerly."[2] Early in 1761, Admiral Holmes was able to inform Pitt that he had broken up this trade.[3]

[1] Robinson (Am. ed.) II, pp. 121, 122.

[2] Boone to Pitt, Oct. 23, 1760. Am. and W.I. 72. *Cf.* Colden to Pitt, N. Y., Oct. 27, 1760, to effect that the navy had stopped this trade. *Ibid.;* Wentworth to Pitt, Dec. 9, 1760. *Ibid.;* Hopkins to Pitt, Dec. 20, 1760. *Ibid.*

[3] Col. Corr. Jam. II. Not dated but marked received May 13, 1761. Holmes added that an attempt was then made to carry French produce to market in Spanish ships from Spanish Hispaniola. The action of Holmes in seizing these Spanish vessels within gunshot of their ports was not approved

His report was, however, too sanguine if taken literally. The navy seriously interfered with this trade and greatly diminished it, but at no time succeeded in entirely eradicating it. Many and tortuous were the methods employed to escape the vigilance of the men-of-war. Thus in 1761 vessels from Jamaica and the continental colonies used Spanish crews and sailed under the Spanish flag from Santo Domingo with French produce.[1] The navy was able to fathom this subterfuge,[2] but there were apparently other devices, which taken in connection with the fact that the navy was not ubiquitous, account for the continuance of this trade, though on a greatly diminished scale. At no subsequent time did it attain the large proportions that it had in 1759 and 1760. In 1762, after Spain had joined forces with France, there was, however, a revival on so extensive a scale, that even the normally imperturbable Commander-in-Chief was roused to indignation.

On May 10, 1762, Amherst wrote to the Earl of Egremont, that he had lately discovered a most iniquitous trade, by

by the British government, whose chief aim, after Pitt's resignation in 1761, was to keep peace with Spain. Cal. Home Office Papers, 1760–1765, nos. 397, 401. On March 29, 1760, Shirley wrote to the Board of Trade that recently the Vice-Admiralty Court of New Providence had condemned the cargoes of eight Spanish vessels belonging to Monte Cristi. These vessels had been captured by a privateer from the Bahamas, and were laden with French sugars and molasses. Am. and W.I. 454.

[1] Holmes to Pitt, June 16, 1761. Col. Corr. Jam. II. See also Cal. Home Office Papers, 1760–1765, pp. 60, 61, for some further details about the trade between the French and Spanish in Santo Domingo.

[2] The attack of Holmes on this trade led to considerable ill-feeling in Jamaica. See complaint against Holmes, Oct. 1, 1761. Col. Corr. Jam. II; and Holmes to Pitt, Oct. 27, 1761. *Ibid.* III. *Cf. passim* this volume.

means of which the enemy was supplied with provisions and stores from many ports on the continent of America, the colonial vessels sailing directly to the French colonies; and that he had written to the governors and customs officials to put a stop "to this pernicious and destructive Trade." [1] In his circular letter to the colonial governors,[2] Amherst stated that he had unquestionable proof that the enemy was being supplied with provisions from almost every port in the continental colonies, and that it was absolutely necessary to stop the trade as the army needed these supplies. In his letters to the Surveyors-General of the Customs,[3] Amherst showed that colonial vessels, which had cleared for British ports and had instead gone to the enemy's colonies, were yet able to procure landing certificates from the alleged British port of destination. Such certificates, he pointed out, could be obtained only by the dishonest connivance of the custom-house officials. He enclosed a list of such vessels that had gone directly to the enemy's ports, though clearing for Connecticut, Pennsylvania, and North Carolina.

To the colonies most implicated, Amherst wrote separately and in great detail. To Colden,[4] the lieutenant-governor of New York, he sent complete evidence of the colony's

[1] Am. and W.I. 97.

[2] Dated April 15, 1762. The governors of Nova Scotia and of Georgia were not included. Am. and W.I. 97. To put "a stop to such infamous practices, particularly at a time when there is the greatest demand for provisions to supply the King's troops." Col. Rec. of R.I. VI, pp. 311, 312.

[3] To Peter Randolph, Southern district, and John Temple, Northern district, dated April 24, 1762. Am. and W.I. 97.

[4] Amherst to Colden, April 16, and May 6, 1762. *Ibid.*

participation in this trade, such as: a French passport found on board a New York vessel, allowing it to trade in French ports; an invoice of sugar shipped on a New York vessel in French Hispaniola, with an account of the cargo sold there by this ship. Among the number of instances mentioned by Amherst, one deserves citation. A New York vessel met a French ship that concealed its nationality by hoisting the British colors. Thereupon the colonial captain hid his French pass. On the New York vessel being seized, the true nationality of the capturing vessel was made evident, and the hidden passport was produced.[1] It is not surprising that Amherst wrote that "such Infamous practices at any time ought to be suppressed," but especially then, when Great Britain was at war with Spain as well as with France, and when "there is the greatest Reason imaginable, to think that without Supplys from this Continent the Enemy could not Subsist their Fleets in the West Indies." Colden fully admitted the truth of these charges, and said that the New York traders "consider nothing but their private profit," and that he would try to punish those engaged in this "most pernicious trade." [2]

[1] Amherst's letter of April 16, 1762, shows that families like the Livingstons and the De Peysters were engaged in this trade. This trade even extended to French Guiana. On Nov. 3, 1762, William Popple, Governor of the Bermudas, wrote to the Lords of the Admiralty regarding a New York vessel that had been seized for trading at Cayenne. Her outward cargo from New York was lumber, provisions, and horses, and the return cargo was cocoa. According to the custom-house papers from New York, her destination should have been Barbados. Adm. Sec. In-Letters 3819.

[2] B. T. N.Y. 36 Oo 67: Colden to B. T., May 11, 1762.

Connecticut and Rhode Island also called forth Amherst's indignation. On May 5, 1762, he wrote to Fitch, the governor of the former colony, complaining that this trade was still continued in Connecticut, and that vessels daily left the colony with provisions destined for the enemy.[1] Rhode Island also was actively engaged in this commerce, which centred in Newport.[2]

In this entire correspondence, Amherst emphasized two points: first, that the trade helped the enemy; second, that it interfered with military operations by depriving the army of the necessary provisions. Despite the fact that the colonies produced a large surplus of food-stuffs, the troops had in part to be supplied from Europe.[3] This was to a

[1] Am. and W.I. 97.

[2] Amherst to Hopkins, May 7, 1762. Am. and W.I. 97, and Col. Rec. of R.I. VI, pp. 317, 318. For the seizure of a Rhode Island schooner, which had gone to Hispaniola with a cargo of flour, see Peter Blake to Egremont, Charleston, Nov. 27, 1762. Am. and W.I. 223.

[3] Even under normal conditions, it is probable that some provisions for the army would have been sent from Ireland. See Pitt Correspondence II, pp. 79, 109, 110. *Cf.* also Brit. Mus. Add. MSS. 35909 (Hardwicke Papers DLXI). In the opening years of the war, wheat was sent to England from the colonies, while in the closing years the movement was reversed. Among the imports of wheat and flour into England in the year from Michaelmas, 1756, to the same date 1757 are the following items: from New York, 7 quarters; from Pennsylvania, 1988 quarters; from Virginia and Maryland, 4827 quarters. For the subsequent year the corresponding figures are 688, 1275, and 2855. Among the exports of wheat from England in 1762 are the following items:—

To the West Indian colonies	7435 quarters
To Quebec	6602 quarters
To Newfoundland	720 quarters
To New York	1557 quarters

Treas. Acc. Rev. Misc. (England), Bundle 80.

great extent due to the trade in question, which enhanced to an abnormal degree the cost of provisions in the colonies. In consequence of the ensuing scarcity, the Commander-in-Chief at this time was forced to order an embargo laid in the Middle and Northern colonies.[1] "I see no other way," he wrote, "of preventing those whose Sole Views seem to be to get Money without the least regard for the good of their Country from accomplishing their Designs."[2] Amherst took this step most reluctantly, as it punished both the innocent and the guilty;[3] consequently on receipt of advices that a quantity of provisions for the army was coming from England, he allowed the embargo to be raised, at the same time expressing the hope that no more attempts would be made to supply the enemy.[4] For his activity in breaking up this trade, Amherst was duly praised by the government.[5]

[1] B. T. N.Y. 36 Oo 67. Amherst, May 5, 1762, to Fitch; May 7, 1762, to Hamilton; same date to Hopkins; etc. Am. and W.I. 97.

[2] Amherst to Governor Hamilton of Pennsylvania, May 7, 1762. *Ibid.*

[3] Governor Bernard of Massachusetts complained that the embargo entailed some suffering in that colony, as fish could not be sent to the British West Indies, nor provisions to Quebec and Nova Scotia. On May 6, 1762, Amherst in reply wrote to Bernard, that this illegal trade had been carried on in a most systematic and wholesale manner, and that its suppression was a matter of the highest importance. He would allow Bernard to relax the embargo as far as Nova Scotia was concerned provided that satisfactory bonds were given. *Ibid.*

[4] Amherst, June 13, 1762, to governors of Rhode Island, Connecticut, Pennsylvania, New Jersey, and Massachusetts. *Ibid.*

[5] On July 10, 1762, Egremont wrote to him, that "the indefatigable Pains You have taken to discover & trace out all the Arts used to cover the most scandalous illicit Trade, carried on with the Enemy, have justly met" with high approbation. Am. and W.I. 77.

CHAPTER VII

MEANS ADOPTED TO CHECK THIS INTERCOURSE WITH THE ENEMY

THE chief instrument used to put a stop to this intercourse with the enemy was the royal navy. There was, however, at hand another effective weapon. It has already been pointed out, that in 1733 Parliament had imposed virtually prohibitive duties on foreign rum, sugar, and molasses imported into the British colonies. This law, generally known as the Molasses Act, had never been enforced,[1] but as these commodities, predominantly the two last, constituted the chief returns from the enemy, it was obvious that the duties thereon could be used as a potent check on this trade. Thus, William Bull, the popular lieutenant-governor of South Carolina, a colonial by birth and education, wrote to Pitt: "I humbly offer it as my Opinion that, until some new Laws are made by the Wisdom of our Mother Country to remedy this Evil, If the Duties upon Foreign Spirits, panels (sugar) and Molasses by 6 G II were rigorously exacted by the Officers of His Majesty's Customs, and the Clandestine Landing of them discouraged," the effect would be to stop this intercourse

[1] The fact that this law was virtually a dead letter was brought out clearly at the detailed hearing before the Board of Trade in 1750–1751. B. T. Journals, 58, Oct. 18, Nov. 13, 20; Dec. 6, 7, 10, in 1750. *Ibid.* 59, pp. 6, 22, 57. Also in Am. and W.I. 687.

with the French.[1] This conclusion was also reached by others,[2] and consequently during the war, the Molasses Act was enforced to an extent unknown theretofore.

The more effectual enforcement of the Molasses Act can be seen best in the returns of the revenue derived therefrom. The aggregate amount of duties paid on molasses in the years from 1734 to 1764 was £13,702, of which only £5686 was collected in the twenty-two years from 1734 to 1755; that is, at the average rate of £259. In the seven years

[1] Feb. 18, 1761. Am. and W.I. 73. Bull pointed out that a large quantity of molasses was smuggled into the Northern colonies, and that this fact would become apparent if the official importations of molasses were compared with the exportations of rum from those colonies. In view of the generally current thesis that the laws of trade were the underlying cause of the American Revolution, the recommendation is interesting as coming from this source. The Molasses Act, while not an integral part of the old colonial system, was probably the only trade law whose enforcement at this time would have seriously interfered with the economic prosperity of the continental colonies. The historian of South Carolina, McCrady, accepts the statement in Joseph Johnson's Traditions and Reminiscences, that had Bull been invested with supreme power as governor, there might have been no revolution in that colony. Thus we reach the somewhat paradoxical conclusion that the cause of a movement was the enforcement of a law, while the bestowal of further honors on the man recommending this action might have averted the movement in South Carolina. McCrady, South Carolina under the Royal Government, pp. 345, 795, 796.

[2] On Dec. 28, 1760, Henry Moore, the lieutenant-governor of Jamaica, wrote to the secretary of state enclosing a letter that he had received from James DeLancey, the lieutenant-governor of New York. DeLancey wrote that he had consulted with Kennedy, the New York collector of the customs, as to the Monte Cristi trade. Kennedy said that he could not legally refuse to give clearances for that port, though it was known that the Spanish grew no sugar there, and that the trade there was directly with the French; but that he would try to stop this trade, and with such end in view "he would make them pay the duties imposed by Law on foreign Sugars." Col. Corr. Jam. II.

1756 to 1762, £4375 was collected, the average being £625. In 1760 and 1761, when especial efforts were made to stop the trade with the enemy, the respective amounts were £1170 and £1189.[1]

This partial enforcement of the Molasses Act led to

[1] An account of the duties collected on Molasses under 6 Geo. II:—

1756	£235 14s. 0d.	1761	£1189 16s. 0d.
1757	95 0 0	1762	717 18 0
1758	519 8 0	1763	1541 5 6
1759	446 16 6	1764	2100 2 0
1760	1170 2 6		
		Total	£8016 2s. 6d.

Treas. Acc. Rev. Misc. (England), Bundle 80. The same results can be obtained from an examination of the revenue from all the duties under this act. The total payments for the sixteen years from 1733 to 1749 were £13,219, of which £4013 was collected in the Bahamas and the Bermudas, and the balance in the continental colonies. Only £1166 of this total amount was collected in the five years preceding the war of 1739. During the war, 1739 to 1748, the amount rose rapidly for the same reasons as in the following war. The average yearly amount collected for the entire period was £826. Am. and W.I. 687. Appendices 4 and 5 to hearing of 1750–1751.

No accounts of the exact amount collected in the following years are available. The treasury books, however, give the net and gross produce of all branches of the revenue under the management of the Commissioners of the Customs. The payments into the exchequer on account of the act of 1733 indicate clearly the great increase in revenue from this source during the war

1758	£10,742	1762	£ 430
1759	2729	1763	3979
1760	6298	1764	4169
1761	1452		

Treas. Acc. Rev. Misc. (England), 50 and 59.

These amounts are all net payments into the exchequer, and do not correspond with either the gross amounts or the dates of the actual collection. It should also be noted that in these accounts there appears no item on account of the Molasses Act, prior to 1758, indicating either that the customs officials in the colonies had not fully accounted for the amounts collected, or that the

considerable friction, especially in New York and Massachusetts. The West Indian trade was mainly carried on in small sloops, which brought the French products to the British continental colonies. There they were in part consumed, but in the case of sugar the bulk was again reëxported in larger vessels better adapted to the European voyage. In New York, the officers of the customs adhered strictly to the letter of the law, and insisted on the payment of the duties on the sugars thus trans-shipped. Their object in so doing was to break up the trade with the enemy, but as the officials in the neighboring colonies pursued a different course, some ill-feeling resulted.[1]

Massachusetts was not seriously implicated in the direct trade with the enemy,[2] but was deeply interested in the Monte Cristi trade.[3] Large quantities of French West Indian products were imported into Massachusetts, where the customs officials tried to collect the duties imposed by the act of 1733.[4] In the neighboring charter colonies,

revenue was used for their salaries. It would seem, however, that in 1758 a considerable portion, if not the whole, of such arrears was remitted to England, as the amount paid into the exchequer in that year is disproportionately large. See also Brit. Mus. Addit. MSS. 33030 (Newcastle Papers CCCXLV, p. 15).

[1] Colden to Pitt, Dec. 27, 1760, and enclosures, George Spencer to Amherst, Nov. 29, 1760; Augustus Bradley to Amherst, Dec. 5, 1760; Report of Council of New York, Dec. 24, 1760. Am. and W.I. 73. See also William Smith's History of New York (ed. 1829), II, pp. 286, 287.

[2] Bernard to Pitt, Nov. 8, 1760, and May 5, 1761. Am. and W.I. 71 and 72.

[3] B. T. Mass. 78 Ll 67, 68.

[4] West Indian products imported into Massachusetts: (B. T. Mass. 78 Ll 56. This account was prepared for Governor Bernard by the provincial revenue officer, who, however, did not distinguish between British and foreign

Connecticut and Rhode Island, the custom-house officials had but little authority, and did virtually nothing to enforce the law. In especial, the profitable trade carried on with the enemy by Rhode Island produced ill-feeling and jealousy in Massachusetts, and in 1761 led to the attempt to declare "writs of assistance" illegal, and to the attacks on the Vice-Admiralty Court by means of the common law courts. This was an organized movement on the part of some Boston merchants to engage in this trade as freely as did their fellows in the neighboring colony.[1] One of the men supporting these suits told Governor Bernard that they would keep up the agitation until the Ministry was forced to change or to repeal the Molasses Act, and until Rhode Island and Connecticut were placed under the same restraints as was Massachusetts.[2]

products. It is to be presumed that a good part was foreign in origin. See *Ibid.* 78 Ll 38 and 55.)

Year	Rum			Sugar			Molasses		
	Hogsheads	Tierces	Barrels	Hogsheads	Tierces	Barrels	Hogsheads	Tierces	Barrels
1755 .	1030	19	6	428	329	1154	8505	197	59
1756 .	1056	42	10	617	146	613	9708	199	102
1757 .	1965	39	18	897	389	500	9273	119	10
1758 .	670	52	56	554	317	346	6172	85	93
1759 .	1143	33	89	1075	281	302	6633	249	12
1760 .	1035	29	33	983	114	201	7614	127	96
1761 .	2187	49	16	1329	1210	268	9918	266	32
1762 .	1242	49	45	2298	207	285	11,062	488	59

[1] Bernard to Halifax, Oct. 25 and Dec. 24, 1763. Am. and W.I. 167.

[2] B. T. Mass. 78 Ll 21. Bernard wrote: "In regard to both these points, if they were sollicited in another Manner, there would be much to be said on

In this attempt there were instituted frequent actions at common law concerning business determined in the Vice-Admiralty Court, and by the custom-house officials. In 1761, when Bernard sent this information to the Board of Trade, there were five suits of this nature before the courts.[1] Three of these actions were instituted by Barons, the collector at Boston, who had been suspended by the Surveyor-General of the Customs. Obviously the entire imperial administrative system was threatened, if the provincial courts, in which the juries were extremely prejudiced, admitted actions for damages brought by a dismissed official against his superior.[2] These three actions, however, were ultimately not brought to trial.[3]

Another case arose from the fact that the Molasses Act provided that the Crown's share of all forfeitures under this statute should go to the colony in which the seizure was condemned. The expenses of these trials were very heavy, and in a number of instances they were charged by the Vice-Admiralty Court on the colony's share, because if charged on those of the governor and of the customs officials,

their behalf." According to Bernard, this agitation was confined to Boston, the Assembly as a whole not approving of it.

[1] *Ibid.*

[2] Barons had Lechmere, the Surveyor-General of the Northern district, arrested in an action for £7500 damages, and the court held Lechmere on bail. *Ibid.* and Ll 22. Barons also sued Cradock, who had been appointed to the former's position during his suspension, pending the decision of the Commissioners of the Customs. *Ibid.* and Ll 23. He likewise brought an action against another customs official, Paxton, whose complaints to Lechmere had led to his suspension. *Ibid.* and Ll 24.

[3] Quincy, *op. cit.* p. 425.

so little would remain to them, that there would be but slight encouragement to make seizures. Massachusetts sued in the provincial courts for the recovery of these charges, but was unsuccessful.[1] Of these cases, the most important was that of *Erwing*[2] vs. *Cradock*. The latter, one of the custom-house officials, had seized a vessel belonging to Erwing on the ground of contraband trade. Erwing admitted the truth of the charge, and prayed for leave to compound, that is, for the release of the seizure on payment of one-half of its value. The Vice-Admiralty Court assented to his petition, and, on payment of £500, Erwing secured his vessel. He then brought suit against Cradock in the common law courts, and was awarded nearly £600 damages. An appeal was naturally taken from this verdict. If upheld, Bernard wrote to the Board of Trade: "It will be concluded that whatever Sum a Man pays into the Court of Admiralty, tho' decreed

[1] Bernard pointed out that if this suit were successful, it followed that money paid in pursuance of a decree of the Admiralty Court, from which no appeal had been taken, could be recovered in a court of common law by persons not parties to the suit. B. T. Mass. 78 Ll 21. There were two suits, of this nature, Gray *vs.* Paxton, and Province of Massachusetts *vs.* Paxton. Bernard referred to the former. In both cases, the Superior Court of Massachusetts, on appeal, reversed the decision of the inferior court in favor of the plaintiff. Quincy, *op. cit.* pp. 541 to 552. At the same time, a similar suit was pending in Rhode Island, where one of the common law judges issued a writ of prohibition against a decree of the Admiralty Court. John Andrews, the Vice-Admiralty Judge in that colony, declared that, as a result of this interference, "all proceedings of said vice admiralty court, not only in this, but in all other causes, have been stopped, although there are now causes of great consequence pending before said vice admiralty court, unfinished." Col. Rec. of R.I. VI. p. 371.

[2] Or Erving. He was closely related by marriage to Shirley. Nova Scotia Arch. (Halifax, 1869), p. 399.

in pursuance of his own petition, may be recovered again at common Law with damages. The Consequences of this in regard to the Execution of the Laws of Trade are obvious." If Erwing were successful, Bernard added, a large number of similar actions would be brought, and their general effect would be to destroy the Vice-Admiralty Court.[1] On appeal, this case came before the Massachusetts Superior Court. In summing up, the judges were all of the opinion that while Cradock, by means of some irregularity, might have been guilty of trespass, yet it was wholly purged by the composition confirmed by the Court of Admiralty, "the decrees of which were of equal force with a Judgement at Common Law. It was urged by the Chief Justice that the Court of Admiralty was part of the Constitution of the Province, it being expressly provided for by the Charter." Consequently, the jury was strongly charged by the court to find for the defendant, yet they brought in a verdict of over £550 for Erwing.[2] As Bernard said in this connection, a custom-house official had no chance with a jury. From this judgment an appeal was taken to England; before it was decided, however, the matter was settled in the colony itself in a manner upholding the authority of the Vice-Admiralty Court.[3]

[1] B. T. Mass. 78 Ll 21.

[2] *Ibid.* Ll 25. £740 Massachusetts currency, which was equal to about £555 sterling. Quincy, *op. cit.* pp. 553–556.

[3] Bernard advised the British government to assume the expense of these suits. B. T. Mass. 78 Ll 21. This was done in the case of this appeal. *Ibid.* Ll. 67 and Quincy, *op. cit.* p. 557. On March 25, 1762, Erwing acknowledged on the record of the Superior Court that he had received "full satis-

Closely connected with this attack on the Vice-Admiralty Court,[1] and proceeding from similar motives, was the attempt made at the same time to have "writs of assistance" declared illegal. These writs were used by the officers of the customs chiefly to prevent the illegal importation of French products, the returns of the intercourse with the enemy. The English statutes regarding frauds in the customs gave the revenue officers extensive powers of search,[2] which were subsequently extended to the officers in the colonies.[3] On the strength of their commissions, these officers were accustomed to enter, by force if necessary, warehouses and other places on information that contraband goods were concealed therein.[4] Massachusetts was also accustomed to grant similar extensive powers of search to the provincial revenue officers.[5] Some opposition to this broad right of search developed, for the system was unquestionably open to legitimate criticism. Accordingly, in 1756, Massachusetts limited the powers of the provincial officers.[6] On the other

faction of this Judgment." *Ibid.* pp. 553–556. It appears, however, from Bernard's letter to Lord Barrington, Feb. 27, 1762, that Erwing discharged this judgment to prevent his answering the appeal, so that, as Bernard wrote, "the King's authority is now triumphant in every instance." *Ibid.* p. 557.

[1] The same people supported this movement and the action Gray *vs.* Paxton. Quincy, *op. cit.* pp. 541–547.

[2] 12 Ch. II, c. 19; 13 and 14 Ch. II, c. 11 § v; 1 Anne stat. 1, c. 13 § ii; 9 Anne c. 6, § ii; 3 Geo. I, c. 7.

[3] 7 and 8 Will. III, c. 22 § vi. [4] Hutchinson, Mass. III, p. 92.

[5] Such officers were empowered to search in all suspected places for goods on which the Massachusetts duties had not been paid. B. T. Mass. 73 Gg 57. See Mass. Acts and Resolves, III, pp. 471, 522, 581, 622, 701, 702, 845.

[6] Application had to be made to a justice of the peace for a special search warrant. *Ibid.* III, p. 1000. For subsequent years, see IV, pp. 186, 303, 421.

hand, the British customs officials began, at about the same time, to apply to the governor for general warrants further to strengthen the authority derived from their commissions. These warrants were technically known as "writs of assistance," and had not been used in the colonies prior to this.[1] Shirley used such warrants in 1755 to prevent the exportation of provisions to the French in Cape Breton and Canada.[2] They were subsequently during the war, and to a great extent as a war-measure, issued quite frequently by the Superior Court of Massachusetts.[3] In 1761 the legality of these writs was questioned, but the justices of this court "were unanimously of Opinion that this Writ might be granted."[4]

The serious friction between the British custom-house officials in the colony and Massachusetts dates from this period, and was a direct result of the stricter enforcement of the Molasses Act with the object of checking the trade with the enemy. This trade of the colonies called attention to illegal trade in general, with which it was intimately associated. Thus, in his circular despatch of August 23, 1760, Pitt wrote that it further appears that large sums of money are sent to the enemy, in return for which commodities are taken that interfere with "the Produce of the British Colonies themselves, in open Contempt of the Authority of the Mother Country, as well as to the most manifest Prejudice of the Manufactures and trade of Great Britain."[5] The

[1] Quincy, *op. cit.* pp. 51, 52.
[2] *Ibid.* p. 401.
[3] *Ibid.* pp. 401–406.
[4] Paxton's Case. *Ibid.* p. 57.
[5] Am. and W.I. 78.

instructions to break up this trade led necessarily to a stricter enforcement of the entire commercial system.[1] There was a tendency to bulk together in one category all violations of these laws, and to include therein those pertaining to trading with the enemy.[2] The chief evasions were connected with the Molasses Act; but in addition it became apparent that the trade with the enemy was also to some extent connected with the direct importation of European goods from foreign countries. During the war, colonial ships frequently carried French colonial products to European markets, whence there was some temptation to import prohibited goods.[3] One of the Massachusetts law-suits in 1761 arose directly from a violation of the act making Great Britain the colonial staple for European goods.[4] Information was also received that this law was not strictly obeyed in other colonies, especially in New York.[5] It naturally followed that the method found

[1] *Cf.* B. T. So. Ca. 20 M 103.

[2] See Governor Dalrymple to Pitt, July 15, 1761, in answer to the circular despatch of August 23, 1760, with details of illegal trade between Guadeloupe and Martinique. Am. and W.I. 100. *Cf.* also same to Egremont, Feb. 16, 1762. *Ibid.* 101. On Nov. 9, 1758, and Jan. 17, 1759, the Board of Trade considered the entire subject of illegal trade in the colonies, and prepared a letter to the customs board on this subject. B. T. Journals 66, 67.

[3] *Cf.* N. J. Col. Doc. IX, pp. 300–302.

[4] Erwing *vs.* Craddock. Quincy, *op. cit.* p. 554. The statute that was violated was 15 Ch. II, c. 7.

[5] In 1757 such a complaint was lodged with the Board of Trade. B. T. Journals, April 27, 1757. The information was contained in a letter from Ireland to the Earl of Halifax, and was to the effect that in Philadelphia "there was a very Considerable Import & Export of Goods to & from Europe & all other European Settlements in America." The informant gave specific details about two vessels owned in Ireland, which were accustomed to sail to France where they took in cargoes of sugar, and of French and East

successful in checking one branch of this trade would be used to cope with the other as well. The comparative success of the navy in preventing trade with the enemy naturally suggested the use of the same instrument to check smuggling in general. After the peace of 1763 this became a marked feature of the administrative reforms inaugurated at that time. But as early as 1757 DeLancey suggested the employment of ships to prevent the direct importation of foreign European and Asiatic products into New York,[1] and in the following year a vessel engaged in this illegal trade was seized by a ship of the royal navy.[2]

Thus the intercourse with the enemy directed the attention of the British government to the broader subject of illegal trade in general, and led to a stricter enforcement of the laws of trade, especially of the Molasses Act, which was the statute chiefly violated. The experience gained in breaking up this trade also suggested the use of the navy as a normal instrument in the administration of the commercial system. At the same time it revealed radical defects in the administrative methods. As has already been pointed out, this trade

Indian goods for Philadelphia. The sugar, which was evidently the main cargo, was repacked after being smuggled into the colony, and was then reshipped to England as British sugar. B. T. Com. Series I, 45 Ff 44. In the same year, Sir Charles Hardy informed the Board of Trade that tea, canvas, gunpowder, as well as other articles were imported in New York directly from Holland. On his breaking up this trade, it was carried on *via* Connecticut. B. T. N.Y. 34 Mm 13. Similar information came from DeLancey in this and in the following year. *Ibid.* 34 Mm 14, 40.

[1] B. T. N.Y. 34 Mm 14.

[2] *Ibid.* 42. The officers of the customs agreed to give up their share of the seizure.

was to some extent carried on with the connivance of British officials, who provided fraudulent papers for the colonial vessels. At the same time these officials were deterred from doing their duty by the damage suits instituted against them in hostile courts. The necessity of a reform of the customs service in the colonies was thus made patent. Similarly, defects were revealed in the system of vice-admiralty courts. Some of these courts were strongly influenced by local feeling and refused to condemn vessels for trading with the enemy. Thus the Vice-Admiralty Court in South Carolina, it was said in 1762, would not condemn a vessel for trading with the enemy, though the evidence was clear on the point at issue.[1] Furthermore it was claimed that both the common law and admiralty courts at New York were prejudiced in favor of this trade.[2] The Vice-Admiralty Court at New York, on a pure technicality, dismissed a suit arising out of a violation of the act of 1757, claiming that it had no jurisdiction.[3] In addition James Hamilton, the governor of Pennsylvania, reported to Pitt in 1760[4] that the most eminent lawyers in his government were retained in favor

[1] Peter Blake to Egremont, Charleston, Nov. 27, 1762. Am. and W.I. 223. William Bull wrote to Pitt, Feb. 18, 1761, that the courts would not condemn vessels coming from Spanish ports with French produce. Am. and W.I. 73.

[2] George Spencer to Amherst, Nov. 29, 1760. Am. and W.I. 73 and 95.

[3] George Spencer to Amherst, Dec. 17, 1760. Am. and W.I. 95. The act of 1757, 30 Geo. II, c. 9, says that the penalties shall be recovered "in the high court of admiralty, or any chief court of civil or criminal juridisction, in such respective colonies or plantations." The judge dismissed the case on the ground that the New York court was one of vice-admiralty and not a high court of admiralty.

[4] Nov. 1, 1760. Am. and W.I. 72.

of this "unjustifiable Commerce," that the Admiralty Judge had decreed in its favor in two instances, the Court holding that the title of the goods had passed from the French before their seizure, and that no act of Parliament existed making such goods lawful prize. As a result of these decisions, several "flags of truce," laden with French produce, taken by British cruisers and brought to Philadelphia, were liberated by the captors, as they saw that it was impossible to procure their condemnation. In the Bahamas, Shirley was forced to remove Samuel Gambier — his own appointee during a vacancy — from the position of Judge of the Vice-Admiralty Court. Gambier encouraged the trade, was himself engaged in it, and had in fact originally come to New Providence under a retainer from some Philadelphia merchants to aid in securing the release of such vessels as might be brought there as prizes. He maintained that the trade was legal until Parliament had legislated against it, and that the Crown's declaration of war was not sufficient for this purpose.[1] It was inevitable that on the return of peace, the British government would try to remedy some of these patent evils.

This trade of the colonies revealed the loose character of the Empire's organization and the inadequacy of the organs of imperial control. The intercourse with the enemy was never entirely suppressed. To a great extent it frustrated the policy of the British government, and

[1] B. T. Bahamas 7 E 5 and 8 to 27. In addition, Gambier claimed that the act of 1757, regulating the exportation of food-stuffs from the colonies, did not give men-of-war or privateers any authority to make seizures.

prolonged the war; it aroused intense indignation and was unquestionably a potent factor in the subsequent alienation. British statesmen, administrators, admirals, and generals condemned these practices in unqualified terms.[1] William Bull, a South Carolinian by birth and education, who enjoyed to the full the confidence of his native colony, went further and thought those engaged in this trade guilty of treason.[2] In the colonies, on the other hand, the wholesale seizure of the vessels trading with the enemy was bitterly resented. It was said that some merchants in New York had been entirely ruined in consequence.[3]

The West Indian trade was to a great extent the basis of industry in the northern continental colonies. These colonies produced a large surplus quantity of lumber, fish, and provisions, which greatly exceeded the requirements of the British West Indies. At the same time, those British colonies could not furnish an adequate supply of molasses. Molasses, especially when distilled into rum, was absolutely

[1] On May 30, 1761, Joseph Sherwood, the agent of Rhode Island, wrote to Governor Hopkins: "Some of our Leading Men have taken great Disgust at the Trade with the French ment[d]. in thy Letter and said to be carried on by the Northern Colonies." Correspondence of the Colonial Governors of Rhode Island (ed. G. S. Kimball), II, p. 320.

[2] On Feb. 18, 1761, Bull wrote to Pitt to the effect that a vessel had been seized for trading at Monte Cristi, but that the evidence was not sufficient to convict "either of High Treason or any illicit Trade; For I had determined if there had been sufficient Evidence of their having supplied His Majesty's Ennemies with any Aid within the Statute of the 25th. of Edward the 3[rd], to have sent them Prisoners to Great Britain, in order to receive their Tryal for that Offence in Westminster Hall." Am. and W.I. 73; Pitt Correspondence II, p. 395. The reference is to the Statute of Treasons of 1352.

[3] Colden to Pitt, Oct. 27, 1760. Am. and W.I. 72.

essential for the fisheries, the Indian trade, and the Rhode Island slave-trade, on which in varying degrees the prosperity of North America depended. In ultimate analysis, it was the West Indian trade that enabled the continental colonies to pay for the British manufactures that they imported.[1] As Governor Stephen Hopkins of Rhode Island wrote,[2] a cessation of this trade would revolutionize industry in the colonies; "compelled by Necessity, (they) must set about making those Things they cannot live without." In normal times it was undoubtedly a wise policy to leave this West Indian trade free and unrestricted. Such it had virtually been prior to the war, as the Molasses Act was all but a dead letter.

Obviously the total cessation of this trade on the outbreak of war would have created some distress in the North American colonies. Though the French colonies were dependent upon them for their food-stuffs, they in turn relied on this market for their surplus produce. Economic dependence is usually mutual; the seller is, as a rule, as much distressed by the want of a market as is the purchaser by a lack of supplies.[3] On the other hand, conditions were created by the war itself, which to a great extent would have compen-

[1] Colden to Pitt, Dec. 27, 1760. Am. and W.I. 73.

[2] Dec. 20, 1760 to Pitt. *Ibid.*

[3] It would appear that the current popular notion about the military weakness of agriculturally non-selfsupporting nations should be somewhat modified by the experiences during these years. Though Great Britain was supreme at sea, the French still managed to get provisions, and though at times there was a scarcity, this economic dependence does not seem to have been a decisive military factor.

sated for this deprivation of the normal market. The large body of troops collected in America, and the presence of the ships of the navy created an unusually heavy demand for the products of the continental colonies. In addition, Guadeloupe, one of the richest of the French colonies, was captured in 1759, and afforded a valuable and rapidly growing market. Thus during the war access to the French West Indies was by no means so essential as in normal times. An absolutely rigid enforcement of British law would have produced some hardship, possibly even to an extent out of proportion to the resultant advantages. There is, however, a mean between absolute non-intercourse and the systematic and wholesale supply of the enemy with stores. It was the extensive nature of the trade that aroused indignation. While the French West Indies were well supplied, there was at times scarcity in the neighboring British colonies. It was especially galling to the Commander-in-Chief to find that the colonies, which he was sent to protect, were selling to the enemy provisions that his army needed, and for which in consequence exorbitant prices had to be paid. Similarly, the naval commanders were bitter against a trade which prolonged the resistance of the French and enabled them to fit out their ships. The trade was carried on so immoderately that it brought considerable wealth to the colonial merchants engaged in it. Burnaby, an English traveller who was in America during the war, reported that New York had "acquired great riches" in this manner.[1]

The immoderate extent of this trade was due to the temp-

[1] Burnaby, Travels (ed. R. R. Wilson), p. 118; *cf.* pp. 128, 129 n.

tations offered by the large profits, together with the absence of a strong imperial sentiment to counteract the promptings of self-interest. As was said at the time,[1] in connection with these practices in Jamaica and in the North American colonies: "Here it is an Island Interest, There it is the Interest of the Colonies; What opposes this Interest is, of all other Things the most obnoxious to them, For the Public or National Interest is out of the Question with both." At the outset the continental colonies supported this policy of non-intercourse, as their own immediate interests were concretely involved in repelling the French advance. In 1758 the tide turned, and in the following year, with the fall of Quebec, the power of France on the continent was broken. It is significant that this trade with the enemy reached its high mark in 1760, when France was no longer a source of danger to the continental colonies. In the eyes of the British government, then under the guidance of the great imperialist Pitt, France was the enemy, whether in India, Africa, Germany, North America, or the West Indies. It would seem, that to many in the colonies, France on the continent of America was the preëminent source of danger, but that France in the West Indies was merely an unfailing source of wealth. The marked provincialism of the colonies blinded them to the fact that any support given to France in the Caribbean strengthened her in Canada. What was in its essence a world-wide struggle between Great Britain and France — between two distinct types of civilization — contracted in the narrow vision of the colonies to the dimensions of a local conflict.

[1] First Memorial in Holmes to Pitt, Jan. 4, 1761. Coll. Corr. Jam. II.

CHAPTER VIII

TROPICAL AND CONTINENTAL COLONIZATION

THE course of events during the Seven Years' War, and the terms of the treaty that restored peace in 1763 are typically characteristic of Great Britain, whose wars, as a rule, are marked at the outset by unreadiness, and at the conclusion by an inadequate treaty.[1] Toward the end of the conflict, British arms were successful in all parts of the world. Canada and all the French West Indies, except Santo Domingo, the richest of French colonies, were in English hands. Havana, the key of the West Indies, had been taken, and so had Manila in the Far East. In East India, the power of France had been crushed; and in West Africa, Senegal and Goree were under the British flag. Under these conditions, England had to some extent a choice as to the direction of her future expansion in America. In 1762 seemingly any terms could have been exacted, but George III and Bute were anxious to have the war off their hands in order to break the power of the great Whig houses, and consequently the treaty of peace was inadequate in many points. In 1761, when Pitt was still at the helm, and was negotiating terms of peace with France, the position of England

[1] "It is an old Observation, that we have generally lost by our Heads what we acquired by our Swords." The Advantages of the Difinitive Treaty (London, 1749), p. 3

was not so strong. Spain was then only an unfriendly neutral, not a belligerent, and though Guadeloupe and Dominica had been taken, Martinique was still in French hands. Pitt recognized that he could not retain all the English conquests, and the question then came up for decision, whether England should retain all Canada, or should keep Guadeloupe instead. On this point there was a most active and interesting discussion, which revealed an important change in the economic theory of colonization.

Theory and policy are the direct result of fundamental social conditions. The present colonial policy of Great Britain is largely based on the avowed desirability of finding homes within the Empire for British subjects, — "breathing spaces" for an expanding population, whose offshoots would otherwise be lost to the flag. This idea was alien to the spirit of the old Empire. The eighteenth century colonies were not looked upon as homes for a surplus population, simply because England was not overpopulated. The small population of Great Britain in comparison with that of her rival, France, emphasized the need for an increase in numbers. Hence, emigration was not encouraged, and there was no surer way to condemn a colony than to show that it tended to diminish the population of the mother country.[1]

[1] See, *e.g.*, Political Considerations (2d ed. London, 1762), p. 52. This pamphlet is attributed to James Marriott. In the cases of Georgia and Nova Scotia, military expediency outweighed this opposition, though in both instances the philanthropic motive was also a factor, naturally more so, however, on the part of the individuals interested, such as Oglethorpe and Coram, than on the part of the government. In the case of both these colonies, as also in general in all the colonies, special efforts were made to build up their population

Consequently colonies were esteemed in the main solely for commercial purposes. The ideal colony was that which furnished commodities which Great Britain could not herself produce, and which did not in any way compete with the industry of the mother country.[1] In their economic pursuits, mother country and colony were to be mutually complementary; the aim was to create self-sufficient commercial Empire, which, while independent of competing European powers, would be able to make them economically dependent on it. To this ideal type of colony, the West Indies conformed more closely than did the continental colonies, with the exception of Georgia, South Carolina, Virginia, and Maryland. Newfoundland was merely a fishing establishment, and was highly esteemed on account of the fishery, which was a nursery of seamen, and hence a source of naval strength. The North American colonies between Maryland and Nova Scotia were not looked upon with favor, as they competed with the metropolis in a number of industries, especially in the production of food-stuffs,

by encouraging immigration from continental Europe. See 6 Geo. II, c. 25 § vii, and Declared Accounts, Audit Office, Bundle 2131, Roll 2: Sir J. Dick for transporting foreign Protestants from Holland to Nova Scotia.

[1] Josiah Tucker, in one of his earlier books, "A Brief Essay on the Advantages and Disadvantages which respectively attend France and Great Britain with regard to Trade" (2d ed. London, 1750), pp. 92–95, supported this view. To divert the colonies from manufacturing, he favored the policy of encouraging them to produce iron, naval stores, hemp, flax, silk, indigo, etc. See also The Laws and Policy of England Relating to Trade (London, 1765), pp. 33, 34, wherein it was held that colonies should produce commodities that England could not raise, such as silk, hemp, pitch, tar, rosin, turpentine, masts, sugar, tobacco, cotton, rice, and indigo.

in the fisheries, in the ship-building and carrying-trades. At the same time, they had but little to export to the mother country, which was still largely agricultural. According to this theory of colonization, the essential thing was that the colony produced commodities that the mother country would otherwise have to buy from foreigners. Hence greater stress was laid on colonies as sources of supply, than as markets for British manufactures. The importance of the colony as a market was not entirely ignored, but was regarded as the natural corollary to the more vital fact that the colony furnished the mother country with raw materials not produced in Great Britain or with tropical products.

This was the general standard by which the value of colonies was gauged until about 1745. According to it, the New England and Middle colonies were found wanting, while those in the West Indies stood the test best. Hence far more attention was paid to the island colonies than to those on the mainland. The former were considered preëminently the valuable colonies. The sugar trade occupied in foreign commerce a somewhat similar position to the woollen trade, being popularly considered a pivotal industry. In addition, the West Indian interest was strongly represented in England, many of the governing classes having estates in those colonies.[1]

[1] In connection with an attempt made in 1744 to increase the sugar duties in England, it was said that many in the House of Commons "were either by themselves or their friends, deeply concerned in one part or other of the Sugar trade, and that the cause itself was always popular in the House of Commons." The wife of the chief member of the Board of Trade, Martin Bladen, had an

There was, however, some opposition to this method of estimating the value of colonies primarily by the products with which they supplied the mother country. This objection gained ground, as England was becoming less and less an agricultural country, and more and more an industrial one. At the time of the peace of Paris, England was ceasing to be a regular exporter of wheat. The manufacturer was becoming of ever increasing importance, and he emphasized the more modern view that colonies should primarily furnish a market for the mother country's manufactures.[1] It was obvious that the West Indies, whose population was necessarily

estate in the West Indies. Parl. Hist. 13, p. 639. In 1760 it was said that, "Many Gentlemen of the *West Indies* have Seats in the *British* House of Commons." Remarks on the Letter Address'd to Two Great Men (London, 1760), pp. 46, 47.

[1] The author of a pamphlet criticising the peace of 1748, especially the failure to acquire Canada, exclaims: "Good God! what an immense Profit would it have been to us to have supply'd all North America with British Manufactures, and in return to have received their rich Furs?" The Advantages of the Difinitive Treaty (London, 1749), p. 27. This transition is well illustrated in Sir William Keith's thought. Occasionally, he said, the balance of trade may turn against a nation, and workmen being out of employment are forced to seek it elsewhere. Then the wisdom of states has found it advisable to send such of their people as could be spared to settle in various climates *where some new species of products might be raised and sent home* to revive commerce and to assist in restoring the lost balance of trade. This was the original intention, "and the only justifiable Reason" for founding colonies. "The Design of those Settlements (was) to raise new and Different kinds of Merchandize for the European Market," in return for which British manufactures were exported. The History of the British Plantations in America, Part I, Virginia (London, 1738), pp. 10, 11. "To support Navigation, and to provide a continual and sufficient Supply of Materials for carrying on a general Commerce to and from all Parts of the World, make Colonies in America equally useful and necessary to every Maritime State. But they are of a further and special advantage to

increasing slowly, would not afford so large a market for British manufactures as the continental colonies with their rapidly expanding numbers. Up to nearly the middle of the eighteenth century, the exports from England to the continental colonies and the West Indies were about equal. A great change then set in.[1] The exports to the West Indies increased but slowly, from £704,000 in 1751–1752 to £777,000 in 1756–1757, and to £1,060,000 a decade

Great-Britain, by securing a certain and constant Vent to the Home Product and Manufactures of that Country, independent of the Conduct and Practice of other Nations." *Ibid.* p. 34. Thomas Pownall in "The Administration of the Colonies" (2d ed. London, 1765, pp. 25, 26), laid especial stress on the value of the colonies as customers of the mother country.

[1] Exports from England to:

	NORTHERN COLONIES	WEST INDIES
1744–1748, 5 years' total	£3,486,268	£3,363,337
1754–1758, 5 years' total	£7,414,057	£3,767,841

These figures are given by Franklin in his pamphlet "The Interest of Great Britain Considered" (London, 1760), p. 57. They were frequently copied in the controversial literature of the following years: Writings of John Dickinson (ed. P. L. Ford) I, p. 222; An Essay on the Trade of the Northern Colonies (London, 1764), pp. 36, 37. Franklin correctly pointed out that this increase in the exports to the continental colonies was in part due to the presence of the army and the navy in North America. Colden also pointed this out, and, in addition, that the increase was also partly due to the colonial trade with the enemy, as the colonies sent some British manufactures to the French islands. Colden to Pitt, Dec. 27, 1760. Am. and W.I. 73. Colden made the same statement in 1765. N.Y. Col. Doc. VII, p. 799. On this exportation of manufactures from the British colonies to the French, see also Sharpe Correspondence II, p. 442. It should be noted that the exports from England to the continental colonies fell off to a marked extent in the latter years of the war. Sir Charles Whitworth, State of the Trade of England (London, 1776), gives full details. It should also be mentioned that among the entries for the West Indies in general were items exported to the continental colonies and also commodities destined for Spanish America.

later.[1] On the other hand, the exports to the continental colonies increased rapidly. In 1746–1747 they were only £783,000; in 1751–1752 they had reached £1,218,000. In 1761–1762 they were £1,441,000, and in 1766–1767 £2,016,000.[2]

[1] Exports from England from Christmas to the same date the following year to:

	1746–1747	1751–1752	1756–1757	1761–1762	1766–1767
Antigua . . .	£44,487	£68,185	£113,308	£125,323	£119,740
Barbados . . .	95,107	172,822	156,932	213,177	145,083
Bermudas . .	3,891	11,767	2,890	7,786	12,133
Jamaica . . .	215,283	351,475	352,797	460,631	467,681
Montserrat . .	1,650	5,307	18,069	23,895	23,071
Nevis	583	10,442	15,420	9,066	11,875
New Providence	. . .	. . .	1,013	. . .	14,986
St. Christopher .	27,743	83,917	116,549	102,627	106,162
West Indies in general . .	345,348	. . .	. . .	. . .	763
Dominica . .	. . .	. . .	. . .	. . .	30,863
Tortola . . .	. . .	. . .	304	2,052	27,010
St. Vincent . .	. . .	. . .	. . .	. . .	14,822
Grenada . . .	. . .	. . .	. . .	119	89,767
Guadeloupe . .	. . .	. . .	. . .	170,226	
Havana . . .	. . .	. . .	. . .	116,777	
Martinique . .	. . .	. . .	. . .	166,196	
	£734,092	£703,915	£776,882	£1,397,875	£1,059,956

B. T. Com. Series II, 414.

[2] Exports from England from Christmas to the same date the following year to:

	1746–1747	1751–1752	1756–1757	1761–1762	1766–1767
Newfoundland .	£49,021	£46,995	£23,537	£34,387	£53,550
Carolina . . .	95,529	150,777	213,949	194,170	244,093
Hudson's Bay .	2,994	3,380	4,033	4,122	4,981
New England .	210,640	273,340	363,404	247,385	406,081
New York . .	137,984	194,030	353,311	288,046	417,957
Pennsylvania .	82,404	201,666	268,426	206,199	371,830
Virginia and Maryland .	200,088	325,151	426,687	417,599	437,628
Georgia . . .	24	3,163	2,571	23,761	23,334
Nova Scotia . .	4,408	19,310	70,600	25,071	25,094
Florida . . .	. . .	. . .	. . .	. . .	30,963
	£783,092	£1,217,812	£1,726,518	£1,440,740	£2,015,511

This rapid increase in the exports to the continental colonies provided a powerful argument to those who looked upon colonies mainly as a market for the surplus manufactures of Great Britain. This view was also strengthened by the fact that the European outlet for English woollens, the most important of the mother country's manufacturing industries, was threatened by the endeavors of nearly every European state to supply itself with these products.[1] On account of its climate, North America furnished a much larger market for woollens than did the tropical West Indies, and in addition a market that was rapidly expanding. In that age of keen international commercial rivalry, the value of such an outlet for England's chief industry was especially patent.[2] The landed classes were in general greatly interested in the woollen industry, and hence were in alliance with the manufacturers as opposed to the trading and commercial interests. They were able to impress this view in the terms of the Treaty of Peace of 1763. This treaty marks a turning-point in British colonial policy in so far that thereafter greater stress was laid on colonies as markets for British produce than on colonies as sources of supply.

B. T. Com. Series II, 414; Whitworth, *op. cit.* pp. 51, 56, 61, 66, 71. Part II of this latter work gives the exports to New York in 1766–1767 as £482,930 and not as £417,957.

[1] Proposals for Carrying on the War with Vigour (London, 1757), pp. 49–54.

[2] The State of Trade in the Northern Colonies, by Otis Little (London, 1748), pp. 25, 40, 41, emphasizes the fact that the Northern colonies consumed so large a quantity of British manufactures, of which a large proportion was woollens. His estimate of their *per capita* consumption in New England and New York is, however, grossly exaggerated.

This change in viewpoint was of extreme importance.[1] To the extent that the matter depended solely on Great Britain's volition, and not on the desires of France and Spain, it led directly to the choice of Canada and Florida, instead of the French West Indies and Porto Rico,[2] as that portion of the English conquests in America to be retained as parts of the Empire. It is interesting to follow some of the contemporary thought leading up to this changed attitude.

The broader political arguments in favor of colonization on the continent, as well as the narrower economic ones, are expounded with great ability by William Shirley, a statesman whose influence on the history of the Empire has been most inadequately recognized. In 1745, when Governor of Massachusetts, he wrote to the Duke of Newcastle strongly advising the reduction of all Canada.[3] Among the resultant economic advantages would be the control of the fur trade and of the fisheries. Shirley then adds: "From the Healthfullness of the Climates on this Continent and the Surprizing Growth of it's Inhabitants within the last Century it may

[1] The following passage emphasizes the essential difference in standpoint toward the West Indies and North America: "The Benefit which accrues to the Mother-Country from a Colony on the Continent, principally depends on the Number of its Inhabitants; that of a Plantation in the Islands arises from the Richness of its Commodities: We rely on the former chiefly for the Consumption of our Manufactures: We expect more from the Produce of the latter, for our own Consumption and for Exportation." The Regulations Lately Made (London, 1765), pp. 5–6.

[2] On Porto Rico, see Bedford Correspondence III, pp. 96, 119, 139; J. Almon, Biographical, Literary, and Political Anecdotes (London, 1797) II, pp. 72, 73. Porto Rico had not been conquered, but there was some talk of exchanging it for Cuba.

[3] Am. and W.I. 3, no. 255.

be expected that in one or two more Centuries there will be such an addition from hence to the Subjects of the Crown of Great Britain, as may make 'em vye for Numbers with the Subjects of France, and lay a foundation for a Superiority of British Power upon the Continent of Europe, at the Same time that it Secures that which the Royal Navy of Great Britain has already at Sea." [1] He then claimed that the West Indian colonies diminished the population of the mother country, while the contrary was true of the continental colonies; [2] and that the increase in population on the mainland meant a large outlet for British woollens and other European commodities. Shirley's ardent desire for the conquest of Canada [3] was not gratified at the time. At the opening of the following war, ten years later, he again wrote to the secretary of state, then Sir Thomas Robinson, urging at length and with great ability the necessity of driving France out of America.[4] Among the benefits, besides those of a political and military nature, would be the increase of the fur trade and the fisheries, and the enlarged consumption of

[1] The same idea is also present in a memorial of the Canadian governor, Galissonière. He pointed out that France must retain Canada as a barrier against English ambition, even though it had always proven a burden; "for if we suffer our enemies to become masters in America, their trade and naval power will grow to vast proportions, and they will draw from their colonies a wealth that will make them preponderant in Europe." Parkman, Montcalm and Wolfe I, p. 37.

[2] This was frequently asserted, and was apparently based on the fact that a large number of colonial ships were sold in England, the crews remaining with the vessels.

[3] V. H. Paltsits, Scheme for the Conquest of Canada in 1746. American Antiquarian Society, April, 1905.

[4] Shirley to Robinson, Aug. 15, 1755. Am. and W.I. 82.

British manufactures. In addition Shirley wrote: "The growing Advantages, w^ch^ would accrue to the Nation must be immense; The State of Security, which the Settlers in North America would be put into, by the Removal of the French; The extensive Trade with the Indians, the Increase of the Fishery, the Rich vacant Country for new Settlements, and the quick Growth of their Estates would make the Inhabitants increase if not in a Duplicate proportion to what they have hitherto done, yet in a much greater degree." He pointed out that the population of these colonies doubled every twenty years, even under existing conditions, and that the increase of exports from England to North America corresponded with the growth of population. Consequently it followed inevitably that the conquest of Canada would result in a large increase in British exports.[1]

In 1760, in connection with some talk of peace, the question arose whether Great Britain should retain Canada or Guadeloupe, both of which had been conquered. The subject aroused keen interest. Pitt said in the House of Commons: "Some are for keeping Canada; some Guadeloupe; who will tell me which I shall be hanged for not keeping?" [2] At the time there appeared a number of pamphlets, in which this matter was discussed with both warmth and ability. The first pamphlet of importance is supposed by many to be the work of the aged Earl of Bath, better known as

[1] Shirley estimated the white population of the continental colonies at 1,200,000, and the exports from England to those colonies at one million sterling, of which 70 per cent consisted of British manufactures, and 30 per cent of foreign goods reëxported from England.

[2] Walpole, Memoirs of George III, vol. I, p. 26.

Pulteney, — the famous leader of the Opposition against Walpole.[1] Herein it was urged that the conquests on the continent must be retained as the essential basis of a durable peace.[2] "You must keep *Canada*, otherways you lay the Foundation of another War." [3] The restoration of peace should not be made conditional on the retention of the West Indian and African conquests,[4] for these possessions are insignificant in comparison with the fact that the removal of France from Canada will give security to the continental colonies. These colonies have a large population and consequently afford a desirable market, "mostly supplied with the Manufactures of Great Britain."[5] On this economic fact the Earl of Bath laid chief stress, though he did not ignore the other advantages arising from the continent of America, such as the important trade carried on with it and the large number of ships engaged therein, the importation thence of iron, indigo and naval stores, and the fact that these colonies fed the West Indies.

This pamphlet called forth a reply, which is generally attributed to William Burke, a friend and kinsman of the famous philosophical statesman of the same surname.[6] Burke advised the return of Canada to France, Great Britain retaining only the "hinterland" of the American colonies and

[1] A Letter Addressed to Two Great Men. London, 1760. John Douglas, later Bishop of Salisbury, is supposed to have collaborated in this publication, and it is even possible that he may have been its main author. See Franklin, Writings (ed. Smyth) I, p. 145.

[2] *Ibid.* p. 29.

[3] *Ibid.* p. 30. *Cf.* p. 31.

[4] *Ibid.* p. 33.

[5] *Ibid.* p. 34.

[6] Remarks on the Letter Address'd to Two Great Men. London, 1760.

Nova Scotia with its boundaries determined in accordance with the British claims prior to the war.[1] Under such conditions, he claimed, the continental colonies would be safe from France. Burke then accused the Earl of Bath of showing little regard to the interests of the West Indies. He said: "Our *Carribbee* Islands must be ever infinitely in greater Danger from *Guadaloupe*, than our *North American* Colonies can be from Canada, circumscribed as it ought, and as it is presumed it will be." [2] "If, as it has been shewn, we may beyond any rational Fear secure ourselves without the intire Possession of *Canada*," then the only question remains, is Guadeloupe or Canada more likely to repay us for the expense of the war? [3] On this point, Burke decided in favor of Guadeloupe and her dependencies, showing that the British West Indies just produced enough sugar for the mother country's consumption, and that France was supplying all Europe with this commodity, as Great Britain had formerly done. Canada, he claimed, would not be a valuable exchange for Guadeloupe, as it "produces no Commodity, except Furs and Skins," which can be exchanged for European goods, and as it has "little Returns to make the *English* Merchant." [4] Besides, even if Canada is restored, by holding the territory in back of the colonies, England can gain the fur trade.[5] On the other hand, Guadeloupe makes more sugar than any of the British islands except Jamaica,[6]

[1] Remarks on the Letter Address'd to Two Great Men. London, 1760, pp. 20, 38.

[2] *Ibid.* p. 28. [3] *Ibid.* p. 29. [4] *Ibid.* p. 36. [5] *Ibid.* p. 37.

[6] *Ibid.* p. 40. The imports into England, Christmas, 1761, to Christmas, 1762, were from:

and this entire crop will be reëxported from the metropolis, "and will consequently be so much clear Money to *Great Britain*." [1]

Burke then discussed the relative value of the two groups of colonies, those in the Caribbean and those on the mainland, and reached the conclusion that "an *Island Colony* is always more advantageous than a Continental one for the Mother Country." [2] "The *West India* Islands lie in a Climate different totally from ours. The natural Produce therefore interferes in no respect with that of *England*," and if our colonies there did not supply us "we must purchase from Strangers." [3] On the other hand, the continental colonies produce, in general, the same things as England, and therefore "except for a few Naval Stores, there is very little Trade from thence directly to *England*." Besides, in these colonies there is a strong tendency to set up manufactures, "and as they increase daily in People and in Industry, the Necessity of a Connection with *England*, with which they have no natural Intercourse by a Reciprocation of Wants, will continually diminish." Referring to the much-discussed question of the future independence of these colonies,[4] Burke added:

Guadeloupe	£513,244
Jamaica	852,777
Barbados	254,860
Antigua	249,367
St. Kitts	246,360

B. T. Com. Series II, 414, p. 26.

[1] *Ibid.* pp. 40, 41. In addition to sugar, Guadeloupe produced coffee, indigo, cotton, and ginger. [2] *Ibid.* p. 46. [3] *Ibid.* p. 47.

[4] Otis Little in "The State of Trade in the Northern Colonies" (London, 1748), pp. 13–17, refers to the jealousy frequently exhibited in England at the

"By eagerly grasping at extensive Territory, we may run the risque, and that perhaps in no very distant Period of losing what we now possess." Canada in French hands binds the North American colonies to Great Britain; it is not necessary to us, and its retention may be dangerous. He added significantly: "A Neighbour that keeps us in some Awe, is not always the worst of Neighbours." [1]

This discussion attracted wide attention,[2] and called forth a skilful, if not a wholly disingenuous pamphlet from Benjamin Franklin, who was in London at the time.[3] Franklin answered Burke in detail, maintaining that the removal of France from the continent was absolutely essential to the security of the British colonies.[4] He pointed out that the

growth of the North American colonies, and to the fact that some people also insinuated that "great Care ought to be taken, lest those Colonies grow too powerful, and set up a Government of their own." Little says that there was no justification for this apprehension. The colonies are not discontented; they are not taxed and are dependent on England for manufactures.

[1] Remarks on the Letter Address'd to Two Great Men, p. 50.

[2] On Feb. 16, 1762, Governor Dalrymple of Guadeloupe wrote to Egremont, that he had seen the party pamphlets on this subject, and that both sides had exaggerated. In his opinion, however, Guadeloupe would be a most valuable acquisition, its trade having greatly increased since the English conquest. Am. and W.I. 101. Joseph Massie, a prolific and able economist, referred to this controversy, and said that the return of the West Indies to France and granting that country permission to fish at Newfoundland would be ruinous. Brief Observations Concerning the Management of the War (London, 1761), p. 8.

[3] The Interest of Great Britain Considered. London, 1760. This pamphlet is also printed in Smyth's edition of Franklin's Writings, vol. IV. In writing it, Franklin was assisted by Richard Jackson. *Ibid.* I, p. 138, and P. L. Ford, Franklin Bibliography, p. 117.

[4] Pamphlet, pp. 8, 9; Writings IV, pp. 34, 35.

increased area of the Empire resulting from the conquest of Canada meant cheap land, and that owing to this fact America would necessarily remain a non-manufacturing agricultural country.[1] He then drew attention to the rapidly increasing population of the continental colonies and to the ensuing large exports from England to them, emphasizing the importance of North America as a market for British manufactures.[2] Franklin rejected Burke's claim that the retention of Canada meant the independence of the continental colonies, laying stress not so much on their loyalty to the mother country, as on their particularism and on their reciprocal jealousies and enmities. He claimed that they loved the mother country more than they did one another, that a union of the colonies was an impossibility,[3] and that without such a union an effort on the part of some of the colonies to gain independence would be madness.

Franklin was, however, not allowed to hold the field unanswered. In 1762, a remarkable pamphlet was published, traversing his arguments and facts, and upholding the value of tropical colonies.[4] The reputed author of this publication, William Burke,[5] started from the premise that purely politi-

[1] Pamphlet, pp. 17, 18; Writings IV, p. 49.

[2] Pamphlet, p. 36; Writings IV, p. 67. The same views were expressed by Franklin in his letters to Lord Kames. Writings IV, pp. 4, 8, 99. On Oct. 19, 1760, Governor Wentworth of New Hampshire wrote to Pitt, congratulating him on the fall of Montreal, and pointing out that Canada would be of inestimable value to Great Britain as a market for manufactures, especially for coarse woollens and every species of ironware. Am. and W.I. 72.

[3] *I.e.* unless the colonies were driven to it by tyranny.

[4] An Examination of the Commercial Principles of the late Negotiation. London, 1762.

[5] P. L. Ford, Franklin Bibliography, p. 117.

cal advantages gained by a treaty of peace are illusory. "There is no Situation in which Wealth is not Strength, and in which Commerce is not Wealth. If Commerce is our Object, we know, and in all other Cases we can at best only guess what we acquire." [1] The negotiations for peace in 1761, he pointed out, were conducted solely with the idea of retaining Canada; no attempt was made to retain the West Indies, and thus British interests in that region were slighted. Great Britain had entirely lost the foreign market for sugar, while the European sugar trade was the most valuable branch of French commerce. This situation, he insisted should have been considered, as by retaining the French islands the conditions could be reversed.[2]

Burke then drew attention to the fact that in 1759 the imports from the West Indies amounted to £1,833,648, while those from New England, New York, and Pennsylvania were only £70,074, and those from all the continental colonies aggregated only about £600,000.[3] The West Indies need British, Irish, and colonial products, and are thus economically dependent on the Empire. In addition, the lucrative African slave-trade is closely connected with their prosperity, while in turn, the continental colonies rely on these islands for a market for their surplus products, and hence also for their ability to purchase British goods. He thus reached the conclusion that the African and North American trades both depended upon the West Indies. Burke then proceeded to attack Franklin for omitting to give the statistics of colonial imports into England, claiming that the rela-

[1] An Examination, pp. 3, 4. [2] *Ibid.* pp. 16–18. [3] *Ibid.*, p. 20.

tive value of the two groups of colonies could not be estimated solely from the English export statistics. In failing to consider the colonial imports into England, he asserted that Franklin was deceiving the ignorant,[1] because as a matter of fact the total trade of England with the West Indies exceeded that with North America.[2]

Discussing more particularly the question of Guadeloupe, Burke then pointed out that in 1761 this island's exports to England amounted to £603,269, of which two-thirds were sugar, and £112,792 cotton,[3] the latter an important product which was not grown extensively in the other British islands.[4] On the other hand, Canada's exports to England in the same year amounted to only £14,015, consisting principally of furs. Burke thus reached the conclusion that from the viewpoint of British commercial interests the retention of Guadeloupe was of far greater importance than that of Canada.[5]

Continuing the argument, Burke noted that the continental colonies were of two distinct classes. Those north of Maryland, he said, have very little direct trade with Great Britain. "I mean they have nothing with which they can repay us for the Commodities they draw from hence." They trade only circuitously with us, and they are our competitors in

[1] An Examination, p. 29.

[2] Year 1758:

Exports from England to Continental Colonies	£1,832,948
Corresponding Imports	648,683
Exports from England to West Indies	£ 877,572
Corresponding Imports	1,834,036

[3] *Ibid.* p. 36. [4] *Ibid.* pp. 38–40. [5] *Ibid.* p. 58.

foreign markets. We consequently interfere with and hurt one another.[1] On the other hand, the southern continental colonies, Maryland, Virginia and South Carolina, bear a close resemblance to the West Indies. They produce commodities not grown in England, such as rice, tobacco, and indigo, and their exports to England are large.[2] Consequently he concluded that it would be absurd to think of adding Canada to the Empire, and not of increasing the British interest in the West Indies. The argument advanced by his opponents that the vast inland tracts on the Ohio could produce commodities that are needed in England, he said, may or may not be true; at all events, if we retain Guadeloupe and not Canada, we shall not sacrifice a present, real, and tangible advantage to a remote contingency.[3]

This view of the relative economic value of the tropical and continental colonies was also supported by a memorial emanating from Barbados.[4] According to the writer thereof,

[1] An Examination, pp. 64, 65.

[2] Imports into England from:

	1757	1761	1762
New England	£27,556	£25,985	£41,733
New York	19,168	21,684	58,882
Pennsylvania	14,190	22,404	38,091
Virginia and Maryland	418,881	357,228	415,709
Carolina	130,889	206,534	181,695

Ibid. p. 66, and Whitworth, *op. cit.* 61, 66. The preponderance in favor of the Southern colonies would be much more accentuated if the import statistics of Scotland were included.

[3] *Ibid.* p. 68.

[4] Reflections on the True Interest of Great Britain. By a planter in Barbados. Col. Corr. Barbados I. See also a memorial from St. Christopher, Feb. 27, 1760. Am. and W.I. 73.

colonies "were originally design'd to contribute to her (the mother country's) Wealth and Power, and the continual Protection which they require, and which they receive, renders their Dependence a just and necessary Duty." The West Indies have answered this purpose. They supply what cannot be raised at home, and consume English manufactures, they support the African trade and create an extensive navigation. Therefore "to settle the Neutral Islands, and to retain all our Conquests in the Caribbees becomes in this View a Capital Point for the Advantage of the Nation."

Shortly before the preliminaries of the Treaty of Paris were signed, there appeared a noteworthy pamphlet in favor of the general terms of the peace.[1] Its author strongly favored retention of Canada, as against those who said that "one white man in the West Indies is worth, to the Trade of his Mother Country about Eight in North America."[2] He opposed the view, "that we should make the Increase of our Possessions between the Tropicks the primary and leading Object of our Policy"[3]; and emphasized this point by showing that England exported far more to North America than to the West Indies.[4]

[1] The Comparative Importance of our Acquisitions from France in America, London, 1762. See also the memorial of April 13, 1761, in favor of Canada as against Guadeloupe. Brit. Mus. Addit. MSS. 33030 (Newcastle Papers, CCCXLV, pp. 1 *et seq.*).

[2] *Ibid.* pp. 20–26.

[3] *Ibid.* p. 37.

[4]

	EXPORTS TO THE WEST INDIES	EXPORTS TO NORTH AMERICA
1744	£796,112	£640,114
1758	877,571	1,832,948

Ibid. p. 28. He claimed that a good deal of the former exports went to the Spanish Main.

The general discussion can be summarized briefly. The West Indian interest claimed that the tropical possessions were the ideal colonies, and laid stress on them mainly as sources of supply and as non-competitive economic units. The continental argument was that the removal of France, by giving full security to the North American colonies, would lead to a rapid growth of their population, and consequently to a corresponding increase in the exports of Great Britain. One argument laid stress on colonies as purveyors of tropical products and of raw materials for British manufactures, which would otherwise have to be purchased from foreigners. The other argument ignored this factor, and estimated the colonies according to the extent that they furnished a market for British manufactures. The older, and perhaps more typically mercantile, view claimed that the continental colonies would become independent; the newer school asserted that disunion among them would prevent such a contingency.

In the abortive peace negotiations with France in 1761,[1] Pitt adopted the newer view. His chief purpose was to break beyond hope of resuscitation the naval power of France, and with this object in view, he favored the retention of Canada, with the total exclusion of France from the New-

[1] The chief diplomatic correspondence in connection with these negotiations has been published in Thackeray's Life of Chatham, vol. II, appendix and *passim* in the text, and in Parl. Hist. 15, pp. 1018–1072. Alfred Bourguet, "Le Duc de Choiseul et l'Angleterre" (Revue Historique, vol. 71 and in his Études sur la Politique étrangère du Duc de Choiseul), gives a number of the French documents. For the best modern account, see Ruville, Pitt, vol. II, ch. 15.

foundland fisheries.[1] On the latter point Pitt was forced to yield, owing to pressure exerted within the ranks of the British government itself.[2] In selecting Canada instead of Guadeloupe, which was the crucial point in the negotiations,[3] Pitt was probably little influenced by the purely economic argument. To his large imagination, the prospect of a vast territorial increase of the Empire's area appealed strongly. Although these negotiations of 1761 came to naught, they furnished the basis on which the final treaty of peace was concluded a year later. The Treaty of Paris of 1763 gave Florida, Canada, and all French territory east of the Mississippi, except New Orleans, to Great Britain. Martinique and Guadeloupe were returned, while St. Lucia, then esteemed the most valuable of the neutral islands, was

[1] Pitt to Stanley, June 26, 1761. Thackeray, *op. cit.* I, pp. 545–546.

[2] Walpole, Memoirs of George III, vol. I, p. 77.

[3] During the preliminary discussions about the proposed peace, Choiseul told Hans Stanley, the British representative, that there was a diversity of opinion in France as to the relative importance of the territories conquered by England. The French minister said: "Some persons consider Canada as a barren desert, and look on Guadaloupe as a most important source of our national riches: while others as strenuously maintain, that without the former province and without the fisheries, the naval power of France is irretrievably lost for ever." In reply, Stanley pointed out that there were the same differences of opinion in England, as was manifest from the pamphlet literature, and added that he was totally uninstructed on this point. In reporting this preliminary skirmish to Pitt, Stanley said: "The Duke, in holding the discourse above mentioned, upon the preference given by some of his countrymen to Guadaloupe, and by others to Canada, fixed his utmost attention upon my countenance, aiming at the same time by signs, by pauses, by half words, and by every other subtility to penetrate my thoughts upon the alternative: I did not, I am sure, by a single syllable or gesture afford him any foundation for the most remote suspicion." Stanley to Pitt, June 12, 1761. Thackeray, *op. cit.* I, pp. 529–531.

ceded to France. In the West Indies, Great Britain received the comparatively unimportant islands of Grenada, St. Vincent, Dominica, and Tobago.

To many in England the peace was not satisfactory, and not a few voiced the opinion of the Earl of Hardwicke that it was inadequate, and that incomplete advantage had been taken of the British victories.[1] In the House of Commons Pitt led the able, if not numerically strong, opposition to the treaty, claiming that France was chiefly, if not solely, to be dreaded by Great Britain in the light of a maritime and commercial power, and that "therefore, by restoring to her all the valuable West-India islands, and by our concessions in the Newfoundland fishery, we had given to her the means of recovering her prodigious losses, and of becoming once more formidable to us at sea." [2]

Those who supported the peace in Parliament asserted that the original object of the war had been the security of the continental colonies, and they insisted that this object had been attained. This security from any possible future conflict with the French meant the rapid growth of these colonies, and consequently an enormous market for British manufactures. This party claimed that the value of the North American conquests "ought not to be estimated by the present produce, but by their probable increase."

[1] Parl. Hist. 15, pp. 1251 *et seq.*

[2] *Ibid.* p. 1266. After the fall of Quebec and Montreal it was said in a current pamphlet: "Martinico, the most important conquest of all the possessions of France in America, is our own; by which France is wounded in the tenderest part of her commerce." "Political Considerations," attributed to James Marriott (2d ed. London, 1762), p. 47.

"Neither ought the value of any country to be solely tried on its commercial advantages; that extent of territory and a number of subjects are matters of as much Consideration to a state attentive to the sources of real grandeur as the mere advantages of traffic." [1] These arguments were no answer to Pitt's contention that the treaty was inadequate, but they were the general basis on which the statesmen of the day justified their choice of territorial acquisitions on the continent in preference to tropical expansion. Unquestionably the immediate advantage of British commerce was sacrificed to some future benefits. A broad policy resting on possible future advantages triumphed over a narrow policy of actual and immediate profits.

The treaty thus embodied the change in the economic theory of colonization, that had been gradually wrought by the phenomenon of the population of the North American colonies doubling every two decades and hence emphasizing the importance of these colonies to the mother country as markets for her manufactures. This change in attitude inevitably led to the devotion of greater attention and interest to the continental colonies than had hitherto been customary. Naturally as colonies in general were valued chiefly from a commercial standpoint, and as these colonies in particular were valuable mainly as consumers of British products, efforts were made in the years after the peace to secure to the mother country the full benefit of the North American market. This attempt can be traced in the legislation of 1764, and also in the efforts made at the

[1] Parl. Hist. 15, pp. 1271, 1272.

same time to uproot illegal trading in the colonies. Simultaneously, the universal success of British arms had created in England a feeling of self-confidence, and a keen interest in the dominions beyond the sea. There arose a strong wave of imperial sentiment, which directed increasing attention to colonial affairs and to abuses therein. The years of war were inevitably followed by a period of readjustment and of reform, and the direction of this movement was, to a great extent, conditioned on abuses that had become patent during the war, and on the adoption of the more modern view of the value of colonies. Coincident with the embodiment of this changed theory of colonization in the terms of the Treaty of Paris, there began a counter-movement in favor of the development of the West Indian colonies.

As already pointed out, in restoring the French West Indies, the peace meant an immediate sacrifice on the part of British commercial interests. An extensive and valuable trade with Martinique and Guadeloupe was entirely cut off. In opposing the treaty, Pitt pointed out that the trade to Canada was of little importance in comparison with that to the West Indian islands, which had been restored to the arch-enemy. St. Lucia, he said, should not have been ceded, nor should Guadeloupe and Martinique have been returned to France, for all that England gains by the West Indies "is made four-fold to us by the loss which ensues to France. But our conquests in North America are of very little detriment to the commerce of France." [1] Pitt's views

[1] Parl. Hist. 15, p. 1266.

expressed the opinion generally prevalent in England that the peace had sacrificed British interests, and that the continental colonies were the chief beneficiaries [1] of a war carried on mainly at the expense of the mother country. At the same time it was recognized that the hereditary enemy, France, by receiving back Guadeloupe and Martinique would, in the not distant future, again be in a position to challenge British maritime supremacy. Hence arose an attempt to stimulate the development of the old and the newly acquired West Indian colonies, both in order to make some compensation for the loss inflicted on British trade by the treaty of 1763, and also at the same time in order to injure French commerce. A similar attempt had been made thirty years before this. The Molasses Act of 1733, which aimed at preventing the continental colonies from buying French West Indian produce, was based on the ideal of a self-sufficient

[1] For this point, see Remarks on the Letter Address'd to Two Great Men (London, 1760), and Franklin's answer in the same year, The Interest of Great Britain Considered. The general opinion in England is well expressed in a private letter dated Nov. 18, 1768: "It is a most lamentable consideration to this kingdom that there should be almost open war between one part and another. The colonists object to every mode of taxation, without ever proposing how much they will raise in their own way towards the millions of debt England is loaded with, and taxed to the very teeth to pay the interest of, and which was actually expended in the sole defence and support of the colonies." MSS. of Shrewsbury, etc., Hist. MSS. Com. 1899, p. 95. During the controversies in 1764 and 1765, the colonial writers denied vigorously, though not convincingly, that they had reaped the chief advantages from the protracted war. Oxenbridge Thacher, The Sentiments of a British American (Boston, 1764), p. 7; James Otis, The Rights of The British Colonists (Boston, 1764), p. 43; Stephen Hopkins, The Rights of the Colonies (Providence, 1765), p. 21.

Empire, and was a measure of economic warfare against France.[1] This policy had not been successful; its revival in 1764 was in part based on the broad grounds just outlined. Incidentally, also, such a measure would be of great advantage to the West Indian planters, who were still very influential in British political circles.[2] This interest had opposed the acquisition of Guadeloupe,[3] unless preferential treatment were granted to the old West Indian colonies.[4] They dreaded the prospect of having to compete with the conquered French islands, which were able to produce sugar more cheaply. The West Indies, however, felt slighted at the insignificance of the acquisitions in the Caribbean after the most successful war in British annals. Thus, the Barbados Assembly showed its dissatisfaction with the terms of the treaty by refusing to join in an address from the Governor and Council to the King congratulating him on the peace.[5] This specific and the more general dissatisfaction with the terms of the

[1] Parl. Hist. 8, pp. 992 *et seq.*

[2] Many of the planters resided in England. An Examination of the Commercial Principles of the late Negotiations (London, 1762), p. 28. On April 30, 1764, Franklin wrote to Collinson: "For Interest with you we have but little. The West Indians vastly outweigh us of the Northern Colonies." Franklin, Writings (ed. Smyth) IV, p. 243. In 1764 Jasper Mauduit said that the West Indies have "a very formidable number of votes in the House of Commons." Mass. Hist. Soc. Coll. Series I, vol. VI, p. 193.

[3] Thus on July 9, 1761, Bedford wrote to Bute in connection with Pitt's plan to take Martinique: "I suppose the sugar planters will no more desire (it) should be retained by us than they did in relation to Guadaloupe." Bedford Correspondence III, p. 25.

[4] Reflections on the True Interest of Great Britain. Col. Corr. Barbados I.

[5] Charles Pinfold to Egremont July 16, 1763. *Ibid.*

treaty, combined with the desire to injure French commerce, led directly to the revival of the policy of the "Molasses Act" of 1733, and to the enactment of the "Sugar Bill" of 1764, in so far as it was designed to regulate trade, and not to raise a revenue.[1]

[1] In this connection it should be noted that George Grenville, who was the father of the act of 1764, in 1762 opposed the cession of St. Lucia and Guadeloupe to France, and insisted on an equivalent being asked for the return of Havana. Grenville Papers I, p. 450.

CHAPTER IX

THE PEACE OF PARIS AND THE EMPIRE

In the history of any state, periods of external activity and growth alternate with periods of internal development and readjustment. The strenuous seven years of war were inevitably followed by a movement of reform. In so far as British colonial policy was concerned, this movement took the shape of an attempt to reform the system of imperial defence; of efforts to uproot those evils in the administrative system that had been exposed by the colonial trade with the enemy; of legislation tending to secure to the mother country the full advantages of the North American market; of a revival of the policy of checking the trade of the continental colonies to the foreign West Indies with a view to developing the British interest in the Caribbean Sea at the expense of French commerce; and, finally, of a readjustment of the laws of trade to the new conditions that the vast territorial acquisitions secured by the treaty of 1763 had created. In general, this policy meant a tightening of the imperial tie, a stiffening of the imperial structure, which was to this extent ill-timed, in that it coincided with a diametrically opposite movement in the continental colonies. To these colonies the removal of France from Canada was of utmost importance. The French danger was the chief

utilitarian tie attaching the colonies to the metropolis, and its elimination allowed full play to those marked forces that tended toward a disintegration of the Empire.

The movement toward independence dates from the very foundation of the colonies. The settlement of New England was not the result of a normal expansion of the state, but was rather of the nature of a schism therein or of a secession therefrom. This tendency in the direction of political separation from the mother country was due in great part to the extreme individualism of the immigrants, whether they came from England, Scotland, Ireland, or from continental Europe. This original characteristic was in turn strengthened by the isolation of the colonists in a remote portion of the world, cut off not only from their fellows in Great Britain, but also from those in the other British colonies by the enormous distances that steam and electricity have since so immeasurably shortened. In part also this lack of cohesion in the Empire was due to the policy of England, which granted to the colonies large powers of local self-government. In this respect the old Empire fell little short of the modern one. The degree of self-government in the charter and even in the proprietary colonies was only somewhat less than that now exercised by Canada and Australia. On the other hand, the mother country erected legislatures in all the colonies, even in those supported by the British tax-payer,[1] and uniformly granted them far greater powers than are enjoyed to-day by a large number of the crown colonies. Thus, in the eighteenth century, Jamaica gov-

[1] The first Assembly of Nova Scotia met in 1758. Nova Scotia Arch., p. 728.

erned itself to a much greater extent than it does at the present time.

In the royal colonies, the Crown appointed the governor and the council; the latter also acted as the upper branch of the legislature, the lower house being popularly elected. The system is now known as the "representative" one in contradistinction to the system of "responsible government," that at present prevails in colonies like Canada. The idea was that the governor and council should be a check on the popular branch of the legislature, and should be independent of it. In practice, however, owing to the fact that as a rule the lower house had gained complete control of the local finances, the governor became dependent on the legislature, which was often in a position to withhold his salary in case he refused to comply with its wishes. There was full justification for Soame Jenyns's contention that the governors could get their salaries from the colonial legislatures only by violating the instructions that they had received from the home government.[1]

Thus the course of constitutional development in the colonies proceeded from the presidential system, or that of mere "representative government," in the direction of the parliamentary system, or that of "responsible government." Through its control of the purse, the lower house of the provincial legislatures had become the dominating factor in American political life. This development had taken place in the West Indies as well as on the continent, though in

[1] Soame Jenyns, The Objections to the Taxation of our American Colonies (2d ed. London, 1765), pp. 13, 14.

general to a less marked extent. In 1742 the Governor of Barbados said that some people in the colony have the idea "that the King has no prerogative here, and that Governors should be solely dependent, on the people." [1] In 1753 the Jamaica Assembly passed the following resolution: "That it is the inherent and undoubted Right of the Representatives of the People to raise and apply Monies for the Service and Exigencies of Government, and to appoint such Person or Persons for the receiving and issuing thereof, as they shall think proper." This claim of the Jamaica Assembly attracted the attention of the House of Commons, which in 1757 voted that this resolution in "so far as the same imports a Claim of Right in the said Assembly to raise and apply public Money, without the Consent of the Governor and Council, is illegal, repugnant to the Terms of his Majesty's Commission to the Governor of the said island, and derogatory of the Rights of the Crown and People of *Great Britain.*" [2]

[1] Am. and W.I. 37, no. 2. Robinson to Newcastle, Aug. 29, 1742.

[2] May 23, 1757. Commons Journal 27, pp. 910, 911. At this time also the House of Commons passed two other resolutions, one against the claim of the Jamaica Assembly to appoint a person for receiving and issuing money, the other upholding the necessity of the instruction to the colonial governors not to pass laws affecting the Crown's prerogative or the trade of Great Britain, unless their execution were suspended until the Crown's pleasure could be ascertained. The Jamaica Assembly had objected to this instruction. On Oct. 13, 1762, Governor W. H. Lyttelton of Jamaica wrote to the Board of Trade, though "there are strong assurances given by the people of their Loyalty & dutifull attachments to His Majesty, there is nevertheless, as far as I am able to judge, such an eager desire to be freed from those restraints, which the Wisdom of His Majesty's Councils have put them under in common with the rest of His Colonies in the great point of Legislation, & such an aspiring

These resolutions, though passed in connection with the claims of the Jamaica Assembly, were meant to apply to all the colonial legislatures. They were ineffectual in stopping the trend of constitutional development. Thus the Lieutenant-Governor of New Jersey, to whom a copy of these resolutions had been sent, wrote to the Board of Trade that they could be of no avail unless followed by an act of Parliament, and that "under the situation that His Majesty's Governors are at present, the Bringing any of the Crown's Rights into Dispute with the People is the sure Way to lose them." [1] The general tendency was toward virtual autonomy; the imperial tie was continually being loosened, and all political life in the colonies centred in the vigorous local

endeavour to acquire in their Assemblies & within the sphere of their activity the same Power and Priveleges as are enjoy'd by a British House of Commons, as, I humbly conceive, may well deserve the consideration of His Majesty's Ministers." B. T. Jam. 36 Bb 65. A few days later, Lyttelton again wrote, that the Jamaica Assembly has "for some years last past considered the House of Commons of Great Britain as their Model & have assum'd & exercis'd the powers thereof as nearly as the circumstances of this Country cou'd allow of, apprehending themselves to have an inherent Right so to do as English subjects, entit'led to the use & benefit of the Laws of England of which the Custom of Parliament makes a part, rather than by virtue of His Majesty's Commission to His Governor; & the pretension of the Council to exercise the power of the House of Lords is built upon the same foundation." Lyttleton added: "And now my Lords I intreat your Lordships to reflect how extremely difficult it is for the King's Governor to support His Majesty's Authority in this Island with a Council assuming the Powers of the House of Lords, & an Assembly those of the House of Commons of Great Britain. *Ibid.* Bb 66. On the difficulties of the governor with the Jamaica Assembly in 1764 and 1765, see Cal. Home Office Papers, 1760–1765, nos. 1650, 1678.

[1] N.J. Col. Doc. IX, pp. 1, 2. Thomas Pownall, Sept. 23, 1757. These resolutions of the House of Commons were sent by the Board of Trade to all the colonial governors. *Cf.* Pa. Arch., 4th Series II, p. 873.

legislatures. Thus there grew up in America a class of men both eager and in general competent to direct the affairs of the communities to which they belonged.

The British government had striven in vain against this development. The Board of Trade knew of no remedy. Recognizing the justice of the complaints of those governors who had objected to the encroachments of the local assemblies, it had repeatedly written to them, asking for suggestions to alleviate the difficulty. The only remedy that suggested itself was the creation by act of Parliament of a colonial revenue out of which the Crown officials should receive their salaries, and thus become independent of the colonial legislatures. This proposal had not commended itself. Nor was the idea of paying these officials out of British funds seriously entertained. This would have done away with the chief purpose for which the local legislatures had been established, and to which they devoted their main attention, namely, to provide for the cost of their own public affairs.

The general effect of this constitutional development was to lessen the political dependence of the colonies on the Empire and to create a tendency toward political separation. That this would be the ultimate future of the colonies had been pointed out already in 1656 by James Harrington. In his "Oceana," [1] this famous and influential thinker said: "That national or independent Empire, of what kind soever, is to be exercis'd by them that have the proper balance of Dominion in the Nation; wherfore provincial or dependent Empire is not to be exercis'd by them that have the balance of Do-

[1] London ed. of 1747, pp. 42, 43.

minion in the Province, because that would bring the Government from Provincial and Dependent, to National and Independent." Starting from this premise, Harrington reached the conclusion that "the Colonys in the *Indies*, they are yet Babes that cannot live without sucking the breasts of their Mother Citys, but such as I mistake, if when they com of age they do not wean themselves: which causes me to wonder at Princes that delight to be exhausted in that way." [1] Harrington showed keen insight and his conclusion was sound, for under the conditions prevailing prior to the inventions that have so extensively facilitated the means of communication, it was impossible to create a loosely organized empire with sufficient social solidarity to make its various members one coherent whole.

Harrington's theoretical conclusion was borne out by the development within the Empire.[2] Thus in 1711, Robert Hunter, then governor of New York, one of the most public-spirited of colonial administrators, wrote to the secretary of state [3] that there prevailed in the colonies a spirit of absolute independence in the management of their affairs. The New York Assembly, he said, claimed "all ye previledges of a

[1] London ed. of 1747, p. 44. John Adams quoted this passage in his "Novanglus." Works (ed. C. F. Adams) IV, p. 104. On Harrington's influence on American thought, see T. W. Dwight in Pol. Science Quar. II, pp. 1 *et seq.*

[2] Filed among the British state papers for 1733–1748 is an undated memorial on the colonies, which states that care must be taken "so to regulate them that they may answer the End of Settlements, and deserve the Protection given to them from hence: For unless some Care be taken, the People born there, are too apt to imbibe Notions of Independency of their Mother Kingdom." Am. and W.I. 603.

[3] Am. and W.I. 6, nos. 87, 94; *Ibid.* Bundle 582, Sept. 12, 1711.

House of Commons, and Stretching them even beyond what they were ever Imagined to be there, should the Counsill by ye same Rule lay Claime to ye rights and priviledges of a house of Peers, here is a body politik Coordinate with (& claiming equal powers) and Consequently Independant of ye Great Counsill of the Realme." Hunter then quoted with approval, as "a Reflexion that deserves some Consideration," Harrington's remarks and prediction about the future destiny of the colonies.[1]

In fact, the entire governmental machinery worked with so much friction[2] at every point where the local and imperial authorities came into contact, that it was apparent to many that the Empire was in a position of most unstable political equilibrium. The Crown officials were continually writing to the government about this tendency toward independence. In 1709, one of the admiralty judges informed the Earl of Nottingham that Rhode Island behaved as if it were an independent state, and that in Massachusetts "some of the leading men already begin to talke of shaking off their subjection to the Crown of

[1] At this time the New York Assembly claimed an "inherent right" of legislating apart from the Crown's instructions to the governor to call together the legislature. This claim was subsequently generally advanced by the colonies.

[2] On Jan. 1, 1712, Robert Hunter wrote to the secretary of state: "In the Infancy of the Colonies the Crown was lavish of priviledges as necessary for their nurseing, but a full grown boy makes commonly but Indifferent use of that Indulgence requisite toward a Child;" in New York the Council is "vilified and Insulted and the officers of Government Look'd upon as the Common Enemy's and marks of their Malice and all this without the least provocation or Colour of Reason." Am. and W.I. 583.

England." [1] Twenty years later, another official informed the British government that in New England there were frequent instances of people disowning the King's sovereignty; "I have heard one say in publique Company that he was a Subject of this Country, & not to the King." [2] Then again, some decades later, the proprietary governor of Pennsylvania, a colonial in interests, wrote of the people whose executive head he was: "I cannot indeed accuse them of disaffection to the Royal Family now upon the Throne, but they are Certainly disaffected to Government itself, and Consequently to his Majesty's Office and Authority tho' not to his Person or Family." [3] William Knox, who at a later date was prominent in British official life, came to the colonies in

[1] Am. and W.I. 6, no. 12. Roger Mompesson, July 4, 1709.

[2] Am. and W.I. 1, no. 177. David Dunbar.

[3] Robert Hunter Morris to Penn, Oct. 27, 1755. Am. and W.I. 69. At a hearing before the Board of Trade in 1760 concerning some laws passed in Pennsylvania, the Attorney-General opened the case, "stating the general Tendency and Disposition of the House of Assembly of the Province at all times to encroach upon the Rights of the Proprietaries, the Prerogative of the Crown, and the sovereign Government of the Mother Country, by their asserting that the Lieutenant Governor was not the Governor of the Crown; — by their almost rebellious Declarations with respect to the Instruction concerning Paper Currency founded upon an Address of Parliament; — by denying the Right of the Proprietaries to instruct their Gov^r and other Acts of avowed Democracy." B. T. Journals 68, p. 139. In 1723, a somewhat intemperate and partisan writer wrote concerning Boston: "Speaking of treason, of which I have heard more here in one day, than in all my life before, such as his Ma^ty has no business in this country, he is our nominal king, but has not one foot of ground among us, neither he or his Deputys or Governours have anything to doe here, the country is ours not his, weel try his title by Law . . . as we have nothing to do with their country so they have nothing to doe with ours, & weel have a fair tryal for it. . . ." Am. and W.I. 1, no. 87.

1757, and found that "a general disposition to independence of this country prevailed throughout the whole." [1]

If loyalty be conceived as a sentiment implying duties and sacrifices, and not merely utilitarian allegiance, there was in the colonies, broadly speaking, little loyalty to Great Britain. Colonial public spirit was predominantly provincial. Except in so far as the mother country was a shield against France or Spain, she represented in general merely an outside force that interfered with their attaining complete self-government. Nor, on the other hand, was there any national or American spirit in the continental colonies. Reciprocal jealousies culminating in discriminatory legislation, boundary disputes, quarrels over the Indian trade, show as clearly as did the failure of the plan of union of 1754 that the creation of a united nation was still in the distant future.[2] Thus each colony stood by itself, intent on its own political disputes, and in turn each colony relied on the mother country for protection. These two factors, especially the latter, counteracted the disintegrating tendencies within the Empire.

That under such conditions independence was a political impossibility was recognized at the very beginning of the Empire's history. At that time, and virtually until the conquest of Canada, independence from Great Britain would have meant only conquest and absorption by some other of the European colonizing powers. Thus in 1633, Downing, the brother-in-law of John Winthrop, wrote to Secretary

[1] Knox, Extra Official State Papers (London, 1789) II, p. 11.

[2] *Cf.* Burnaby, Travels, pp. 152, 153.

Coke, "it is a causeless fear without precedent that a colony planted in a strange land was ever so foolishly besotted as to reject the protection of their natural prince. . . . It is not an easy thing to force or compel a colony planted in a strange land to forsake their allegiance and protection of their natural prince, or to leave their commerce with their friends and allies in their native country, whom they may safely trust, and so rest upon strangers for protection and commerce, in whom they can put no confidence. Surely they would be counted a foolish and mad people that should, without constraint, take their stocks out of their friends' and kinsmens' hands to venture and hazard the same in mens' hands in whom they have had no experience."[1] The entire course of English colonial history up to 1763 shows that the closeness or looseness of the imperial tie depended upon the extent of the danger from Spain or France. The fact that Great Britain protected the colonies in peace and in war was the main bond securing the colonies to the mother country. So apparent was this that a Swedish scientist, who toward the middle of the eighteenth century travelled extensively in the colonies, questioned whether England had ever seriously intended to conquer Canada, as the proximity of the French deterred the colonies from seceding.[2]

Similarly it was recognized that the disunion of the colonies was a potent factor in retaining them within the

[1] Coke MSS., owned by Lord Walter T. Kerr, and located at Melbourne Hall, Derbyshire, England. The spelling and punctuation of the extract have been modernized.

[2] Peter Kalm, En Resa Til Norra America (Stockholm, 1756) II, pp. 371 *et seq.*; English translation (Warrington, 1770) II, p. 264.

imperial fold.[1] Shirley thought that their clashing interests would prevent a union without which independence was impossible.[2] In the discussions during the war as to the advisability of retaining Canada, it was pointed out that the removal of the French would lead to a movement for independence on the part of the continental colo-

[1] Both ideas are contained in an address of the New York Assembly of 1741 answering the Governor's speech in which he said that some in England thought the colonies were anxious for independence: "We dare Vouch That not one single Person in it has any such Thoughts or Desire, for under what Government can we be better Protected, or our Liberties and Properties so well secured?" Am. and W.I. 9, no. 93.

[2] Shirley was ardently in favor of conquering Canada, and hence tended to belittle the effect of such an event on the unity of the Empire. In 1745, he wrote to Newcastle urging his favorite scheme, and pointing out that if the colonies became restless and wanted independence, Louisburg would be a very important check to such a movement. He also added, this contingency "seems to me from the observation I have been able to make upon the Spot, at the Distance of some Centuries farther off than, I have heard, it does to Some Gentlemen at home." Am. and W.I. 3, no. 197. In 1755, also, Shirley wrote to Sir Thomas Robinson advising the conquest of Canada and adding: "Apprehensions have been entertain'd, that they (the colonies) will in time unite to throw off their Dependency upon their Mother Country, & set up one General Government among themselves; But if it is consider'd, Sir, how different the present Constitutions of their respective Governments are from each other; how much the Interests of some of them clash, & how opposite their Tempers are ; such a Coalition among them will seem highly improbable, at all Events, they could not maintain such an Independency, without a Strong Naval Force, which it must forever be in the Power of Great Britain to hinder them from having." Am. and W.I. 82. Jeremiah Dummer in his "Defence of the New England Charters" (London, 1721), likewise maintained that the colonies were "so distinct from one another in their Forms of Government, in their Religious Rites, in their Emulation of Trade, and consequently in their Affections, that they can never be suppos'd to unite in so dangerous an Enterprize," as trying to gain independence. Pownall (*op. cit.*, pp. 28, 63, 64) also advanced the same argument.

nies.[1] Such unquestionably was the result. The conquest of Canada severed the chief material bond attaching these colonies to Great Britain, and made their independence a

[1] In 1777 there were published by J. Almon some letters purporting to have been written by Montcalm in the years 1757, 1758, and 1759. (Lettres de M. le Marquis de Montcalm, London, 1777.) At the very time of publication, their authenticity was questioned, Shelburne affirming that they were forgeries and Lord Mansfield insisting that they were not spurious. (Almon, Parliamentary Register, House of Lords, VII, pp. 122, 126, 127.) Their publisher was himself in doubt as to their authenticity. (Almon, Biographical Anecdotes II, p. 99.) Since then this question has been frequently discussed, *e.g.*, by: Parkman in Mass. Hist. Soc. Proc. 1869–1870, pp. 118 *et seq.* and in Montcalm and Wolfe II, pp. 325, 326; Justin Winsor in Mass. Hist. Soc. Proc. 1886–1887, p. 202; Henry Stevens, Bibliotheca Historica, 1870, pp. 114–117. Subsequent to these discussions, manuscript copies of the letters have come to light in the Dartmouth collection and in that of the Marquess of Lothian. It also appears that other manuscript copies of these and other letters of Montcalm are in the Cheltenham Collection (Doughty, Siege of Quebec VI, pp. 243, 257), as well as in the Montcalm papers and in the Public Record Office (Am. and W.I. 485). Obviously the dispute as to their authenticity cannot be determined without a careful comparative examination of these manuscripts. These letters were handed to the British government by one Roubaud, a renegade Jesuit missionary, who after the conquest of Canada went over to the English. His own testimony is contradictory, and is to a great extent worthless on account of his unreliable character. Yet it unquestionably throws a serious doubt on the genuineness of the letters. One point is, however, beyond question, that Roubaud handed copies of these letters to Grenville at the very beginning of the American troubles, when there could be virtually no inducement to misrepresent conditions in the colonies. ("Mr. Roubaud's Deplorable Case" in Historical Magazine, Series II, VIII, p. 283; Brymner, Report on Can. Arch., 1885, p. cxxxviii; Almon, Biographical Anecdotes II, p. 99; Verreau in Report of the Minister of Agriculture of Canada, 1874, p. 182.) Apart from the question of their authorship by Montcalm, these letters in general describe accurately conditions in the colonies. In one of them it is said that the colonists "en général ne se soucient guère du Roi ni du Parlement d'Angleterre — aussi auraient-ils dès longtemps secoué le joug, si la crainte de la France n'eut été un frein pour les retenir, chaque Province serait devenue une petite

political possibility.[1] It was a most fundamental fact in the history of the Empire; it destroyed the equilibrium of the unstable structure and allowed full scope to the centrifugal forces within it. It had little effect upon the West Indian colonies; they remained as heretofore dependent on the naval power of the mother country. At the same time the long years of joint military service by the provincial soldiers tended to bring the continental colonies closer together, and to emphasize their common characteristics, especially when contrasted with the regular soldiers from Europe.[2]

While thus the conquest of Canada broke the main link attaching the colonies to Great Britain, the coöperation of the provincial and regular forces during the war did not produce

Republique." MSS. of Marquess of Lothian (Hist. MSS. Com. 1905), p. 240. In the various forms in which these letters are extant, there are a number of verbal differences due evidently to carelessness on the part of Roubaud, who made a number of copies either from a French original or, as some suppose, from an English one. On Roubaud, see especially Brymner, Report on Canadian Archives for 1885, and also Cal. Home Office Papers, 1760–1765, nos. 2021, 2097.

[1] Already, in 1710–1711, a Frenchman had pointed out this connection, Parkman, Half Century of Conflict I, p. 155.

[2] In the Montcalm letters mentioned above (Lettres de Montcalm, pp. 2–10; Lothian MSS., p. 239) is a letter purporting to have been written to Montcalm from Boston and subsequently translated by Bougainville, which describes this development. "Pendant plus d'un siècle nos diverses Colonies ont eu très peu de correspondence entre elles; occuppées à se former et s'établir, elles ne visaient qu'à elles-mêmes. Les Gouvernements d'ailleurs sont differents, les loix, la Religion souvent, & le commerce y contrastent. De là leur peu d'union; elles subsistaient l'une à côte de l'autre sans presque se connaître. Mais depuis cette guerre les colons se sont rapprochés de moeurs, d'interêts & de sentiments; obligés de fournir leurs contingents, ils se sont trouvés rangés sous le même pavillon; des liaisons, des correspondences se sont formées."

a cordial feeling, but rather served to accentuate the differences between the two branches of the race. It emphasized what were to a great extent temporary divergencies created by a radically different social and economic environment, and it led to many misunderstandings. Washington's scathing criticism of the regular troops under Braddock [1] was not conducive to harmony, nor was Wolfe's even more severe condemnation of the colonial levies.[2] The products of a more highly developed and complex civilization were prone to look upon the rude and primitive culture of America with a feeling sometimes bordering on contempt.[3] British officers were apt to assert a superiority which was

[1] Washington, Writings (ed. W. C. Ford) I, pp. 173–175. Dinwiddie sent a copy of this letter to England.

[2] In 1758, on hearing of the defeat of Abercromby at Ticonderoga, Wolfe wrote to Lord George Sackville: "The Americans are in general the dirtiest most contemptible cowardly dogs, that you can conceive. There is no depending upon 'em in action. They fall down dead in their own dirt and desert by battalions, officers and all. Such rascals as those are rather an incumbrance than any real strength to an army." Hist. MSS. Com. 9, III, p. 77 [a]. Abercromby's despatch to Pitt, July 12, 1758, gives no indication that there was any misbehavior on the part of the provincial troops. Am. and W.I. 87. On Aug. 22, 1758, Pitt himself wrote to Grenville, "the troops deserve all applause: the provincials share the honour." Grenville Papers I, p. 262. Coming from a man of such lofty character as was Wolfe's, these criticisms are significant indications of the alienation between the mother country and colonies. Equally significant are the criticisms of Forbes, who is deservedly recognized as one of the heroes of the war. These have been quoted elsewhere in this essay. For further expressions of Forbes's opinions, see Parkman, Montcalm and Wolfe II, p. 137.

[3] In connection with the handful of colonial troops that participated in the reduction of Louisburg, Wolfe wrote to Lord George Sackville, May 12, 1758: "About 500 Rangers are come, which to appearance are little better than *la canaille*." Doughty, *op. cit.* VI, p. 74.

galling to the pride of many a colonial. In a number of instances this feeling was justified by the character of the colonial levies. Thus a cordial friend of America frankly admitted that the two regiments enlisted in the colonies for service in 1755 consisted of "the very scum of the People, Who will be of as little service planted in any Colony as they are in the Defence of it." [1] The provincial soldier was also unaccustomed to military discipline and routine, and was of far less value in open operations [2] than in backwoods fighting. On the other hand, however, the regular troops and their officers did not readily adapt themselves to the conditions requisite for the successful conduct of a war in America, and, especially in the first few years of the war, committed many disastrous blunders.[3] Partly for this reason the provincial soldiers were loath to serve under British officers.

[1] This criticism refers to the two regiments, Shirley's and Pepperrell's, raised in America at the expense of the mother country. N.J. Col. Doc. VIII, Part II, p. 17; Sharpe Correspondence I, pp. 107, 108. The critic quoted above is Dennys (Dennis) de Berdt, a London merchant with extensive commercial connections in America. At a later date he was agent in England for the Massachusetts Assembly. Appleton, Cyclopædia of American Biography II, p. 118. In 1757 de Berdt prepared a scheme for carrying on the war which he intended for the consideration of Lord Walpole, but on that statesman being incapacitated by illness, he sent it to Pitt, Feb. 12, 1757. Pringle (Chatham) MSS. in Public Record Office, vol. XIX. The criticism occurs in this memorial.

[2] De Berdt said that a large number of regular troops was necessary "or else in an open Field or the attacks of Forts we can never successfully oppose the Power of France whose Regular Troops are exceeding numerous."

[3] Thus, on Dec. 1, 1758, James Wolfe wrote to his friend Rickson, blaming Abercromby for his "precipitate attack of Ticonderago," disparaging the conduct of the operations against Louisburg, saying we "blundered from the beginning to the end of the campaign." Doughty, *op. cit.* VI, p. 27. On May 24, 1758, Wolfe wrote to Sackville, criticising Loudoun for adhering to Euro-

As De Berdt pointed out in 1757, in order to obtain the best men in the colonies they must be commanded by "officers of their own country."[1] The Americans were prone to attribute the disasters of the years 1755, 1756, and 1757 to the inefficiency of the British military commanders,[2] and these in turn blamed the colonies for their backwardness in providing troops.

One of the most troublesome and irritating problems demanding a settlement was the relative rank of officers appointed by the Crown and of those commissioned by the colonial authorities. This led to many disputes and disagreements.[3] As Great Britain undertook the responsibility of the war, it was obviously impossible to allow the regular to be outranked by the colonial officers, as in this way the control of affairs might pass from the hands of the mother country. But the regulations adopted at the outset were needlessly stringent. In 1754 it was ordered that all troops serving by commission from the Crown or the Commander-in-Chief should outrank all colonial troops; that all provincial

pean methods of fighting. "Hitherto there has been the most profound ignorance of the nature of the war upon this continent," a condition which he hoped Lord Howe would remedy, provided he outlived the campaign. *Ibid.* p. 77.

[1] Pringle MSS. XIX, Feb. 12, 1757.

[2] *Ibid.* Dennys de Berdt to Pitt, Jan. 16, 1758. The writer added: "Nor can the Provision that may be made for the Nephews or youngest Sons of Honourable Families by giving them Command in America, Compensate for hazarding the loss of a Country which acquired by our Enemies will be such an accession to their Power as will enable them to inslave all Europe." See also Collections of Connecticut Historical Society III, pp. 334–336.

[3] Parkman, Montcalm and Wolfe I, pp. 152, 254, 390, 399, 400; II, p. 118.

general and field officers should have no rank when serving with similar officers appointed by the Crown; and that all captains and other inferior officers serving under commissions from the Crown should outrank provincial officers of like grade regardless of the date of their commissions.[1] In 1756 these regulations were altered in so far that provincial general and field officers were given the rank of eldest captains "on all Detachments, Courts Martial or other Duty" wherein they may be employed in conjunction with the regular troops.[2] Finally in 1757, Pitt adopted a regulation which, in general, proved satisfactory. It provided that all colonial officers, from the rank of colonel up, should, on all duties in conjunction with the regulars, take rank after all colonels serving by commission from the Crown, and that all inferior

[1] N.J. Col. Doc. VIII, Part II, pp. 29, 30; Col. Rec. of No. Ca. V, p. 152. Sir Thomas Robinson, Nov. 12, 1754.

[2] Henry Fox, May 12, 1756. N. J. Col. Doc. IX, pp. 19, 20, and Sharpe Correspondence I, p. 413. Some of the difficulties are clearly brought out in a letter that Governor Charles Lawrence wrote to Colonel Monckton in connection with the troops raised in New England for the Nova Scotia campaign of 1755. On March 28, 1755, he wrote: "The Rank of a Provincial or Irregular Commission, which is no more than Imaginary, whither of a Major or whatever else it may be, can never come in Competition with the Rank of a Commission granted by His Majesty how inferior soever that may be: Nevertheless if the Provincial Officers of the Irregulars should be so vainly idle as to Contend with the other Officers upon a point that appears so plainly against them, I should hope that the Kings Officers will even acquiesce for the sake of His Majesties Service in an affair that can never afterward affect their Rank as Officers in the Army. I Should recommend it strongly at the same time to seperate as much as may be the Regular from the Provincial Troops in order to prevent if possible, such Ridiculous differences, as some vain people may have a propensity to Create." Chalmers's MSS. (Lenox Library) Nova Scotia, 1745–1817, pp. 8, 9.

colonial officers should take rank after the regular officers of the like grade.[1]

In the later and successful years of the war, after Pitt had inaugurated the compensation system,[2] the relations between the colonial and regular forces were more harmonious. Throughout the entire war, however, it was realized that the colonies as a whole were not exerting themselves to the utmost, and that they were inclined to shift the burden of the war upon the shoulders of the British tax-payer. In their dealings with the provincial authorities, the Commander-in-Chief often encountered annoying difficulties.[3] In varying degrees all these matters produced friction. In addition there was some suspicion of the loyalty of the colonies.[4]

[1] Dec. 13, 1757. N.J. Col. Doc. IX, p. 20.

[2] In 1757 De Berdt advised Pitt that the enlisting of colonial troops for a particular service "under the pay of Great Brittain" would produce satisfactory results. Pringle MSS. XIX.

[3] Thus on May 21, 1759, Amherst wrote to Wolfe, in reply for the latter's request for three hundred pioneers, colonials whom he needed for the attack on Quebec: "If my demands on this occasion have not the weight that I hope they will have, I can't help it; the difficulties of prevailing on any of the Governments to the Westward of Halifax, to go out of the common road, are great." He hopes that the government will act "without waiting for provincial Authorities & Ceremonies, by which half the Campaign would be over before they are resolved." Doughty, *op. cit.* VI, p. 54.

[4] See Secret and Miscellaneous Papers, 1756–1761: Am. and W.I. 81. The question raised in these papers as to Shirley's loyalty is ridiculous. *Cf.* also Dartmouth MSS., Hist. MSS. Com. XIV, 10, p. 7. One of the Montcalm letters quoted above (Lettres de Montcalm, pp. 1 *et seq.*; Lothian MSS., p. 239; Dartmouth MSS., p. 545) states that the writer was in continuous correspondence with the English colonies, and that some of them were willing to become neutral during the war. See also Parkman, Montcalm and Wolfe I, p. 435.

As far as overt treason was concerned, there seems to have been little basis for such accusations. To many, however, the colonial trade with the enemy appeared closely akin to treason, and led to a strong feeling of resentment in Great Britain. On the other hand, the wholesale seizure of colonial ships engaged in this trade and the enforcement of the Molasses Act produced considerable ill-feeling in a number of the colonies.

During the war also there arose two questions, one primarily affecting Virginia, the other New York, both of which led to steps on the part of the British government which tended still further to increase the mutual feeling of annoyance. In Virginia the question concerned the most fundamental imperial relations, and brought to an issue the right of the colonial legislature to pass acts which, however free they may have been of such an intent, had the direct result of scaling down debts due to merchants residing in the mother country.

In 1748 the Virginia Assembly passed a law that judgments for sterling debts could be settled in currency at 25 per cent advance. As exchange fluctuated and was at times as high as 40 per cent, some London, Liverpool, and Bristol merchants complained about this act.[1] In the meanwhile, partly owing to the carelessness of the Board of Trade and its legal advisers, and partly because of the remissness of the British merchants in not complaining in time, this law had been confirmed by an order in council. It thus obtained the legal validity of an act of Parliament, and could not be

[1] B. T. Va. 25 W 146. 1751.

repealed either by the colonial legislature or by the Crown separately, but only by the joint action of both.[1] In 1752, at the suggestion of the Governor, the colonial legislature was seemingly about to repeal the act when word was received of the royal confirmation, and consequently the matter was dropped.[2] In 1754, however, the British government sent instructions to the Lieutenant-Governor to induce the Assembly to modify the law.[3] This was done in 1755, when the Virginia legislature provided that in actions for the recovery of sterling debts the courts should fix the rate of exchange at which the amount due could be paid in currency.[4] This arrangement was not satisfactory to the British merchants, and their dissatisfaction was intensified by the fact that at about this time Virginia began to issue paper money, making it a legal tender for debts.

In 1755, owing to the scarcity of money in the colony and the necessity of providing funds for purposes of defence, Virginia began to issue paper money.[5] The amount issued increased rapidly, and despite the legal tender clause and the provisions made for their redemption, these notes steadily

[1] In 1761 the Virginia Committee of Correspondence said of such a law that "no power on Earth can alter the Force of it less than our Assembly with his Majesty's Assent." This statement ignores the power of the British Parliament. Proceedings of the Virginia Committee of Correspondence, 1759–1767, in the Virginia Magazine of History and Biography XI, p. 20. Future references to these proceedings will be given in the following abbreviated form: Va. Mag.

[2] B. T. Va. 24 W 77.

[3] *Ibid.* 25 W 166.

[4] Hening VI, pp. 478, 479. 1755 Ch. VII, §§ i, ii; Va. Mag. X, p. 345.

[5] B. T. Va. 25 W 198, 200.

depreciated in value. In 1757 exchange was at 35 per cent, in 1762 at 65 per cent.[1] In 1758, the London and Bristol merchants presented memorials[2] against these issues of legal tender paper, whose effect was to scale down the large outstanding amounts that the Virginia planters owed them. Accordingly, instructions were sent to the colony to stop such practices.[3] These instructions were, however, not obeyed.[4] The Governor was forced to yield to the wishes of the Assembly, as otherwise funds for carrying on the war could not be secured. Francis Fauquier, then governor of Virginia, an economist of no mean ability,[5] said that Virginia could not help herself in any other way, and that the English merchants having sterling debts had no cause for alarm, as paper money could not be tendered for such accounts.[6] Unfortunately for the British merchants, there was a serious doubt as to the validity of the repeal of the law of 1748 which had fixed the rate of exchange at 25 per cent,[7] and in addition, they claimed that the determina-

[1] Va. Mag. XII, pp. 1–4.

[2] B. T. Va. 26 X 31, 32; B. T. Journals 66, June 21, 1758.

[3] B. T. Va. 26 X 44.

[4] *Ibid.* 27 Y 50, 51.

[5] See his remarkable pamphlet, "An Essay on Ways and Means of raising Money," London, 1756.

[6] B. T. Va. 26 X 49. In 1763 the Virginia burgesses stoutly asserted that they had no intention of defrauding their creditors, and that the merchants had no cause for complaint, as in the case of sterling debts the courts had always fixed the rate of exchange fairly. *Ibid.* 27 Y 92.

[7] The English merchants claimed that the law of 1748 could not be legally repealed by the law of 1755 until the latter had received the Crown's confirmation, and that consequently they could be paid in depreciated money. B. T. Va. 27 Y 51, 1762. For a similar protest from the Glasgow merchants, see

tion of the rate of exchange by the courts under the law of 1755 was unsatisfactory, as in some instances exchange had risen 5, 10, and even 15 per cent between the time of the orders of the court and the possibility of obtaining a remittance. Moreover, the Glasgow merchants claimed that most of the debts of the British merchants were in currency, and had been contracted on the strength of the former low exchange.[1] As far as these debts were concerned, the action of Virginia unquestionably amounted to partial repudiation. But in contradistinction to a number of the other colonies, Virginia was to a great extent innocent of any such intention. The initial step once taken, however, the inevitable results followed, as in similar instances in the other colonies, — depreciation and an outflow and disappearance of coin,[2] — which in turn rendered the further issue of paper money seemingly imperative. It was a vicious circle into which was drawn not only the colony but also the

ibid. Y 55; and from the Liverpool merchants, see *ibid.* Y 56. In 1763 the burgesses answered that their law of 1755 repealed that of 1748, even though it had not yet received the royal approbation, and that if the merchants thought otherwise they should not present petitions, but should get the law of 1755 confirmed by the Crown. *Ibid.* Y 97. For Virginia's defence in 1759 and 1763, see Va. Mag. XI, p. 2; pp. 345–349.

[1] B. T. Va. 27 Y 113, 114.

[2] These Virginia treasury notes were legal tender in payment of all debts, except the Crown's quit-rents. Hening VII, pp. 336, 351. The Deputy Receiver-General of Virginia, however, pointed out to the Lords of the Treasury that owing to the large emissions, gold and silver had left the country, and that consequently he was forced to take this depreciated money in payment of the quit-rents, which resulted in a loss to the Crown of 35 per cent. B. T. Va. 27 Y 51; B. T. Journals 70, p. 312. Burnaby (Travels, pp. 60, 61) pointed out that "the use of paper currency in this colony has entirely banished from it gold and silver."

British merchant. The latter was naturally incensed at what, as far as he was concerned, amounted to a scaling down of debts owing to him.[1]

In addition to these issues of paper money, Virginia at this time also embarked on another policy, which had similar results. Tobacco had, ever since the origin of the colony, been used as an alternative standard of value. During the war tobacco rose violently in price, due partly to the planting of smaller crops, and partly to the depreciated paper money. Already in 1755,[2] Virginia passed an act giving to those owing tobacco, whether on debts, contracts, or for any other reason, the alternative of discharging their obligations during the following ten months in money at the rate of twopence a pound. In 1758, owing to the scarcity of tobacco, a similar act was passed, which was to be in force for a year.[3] This law, familiarly known as the "Two-Penny Act,"[4] aroused intense opposition, both on the part of the clergy,[5] as well as

[1] In 1762 the merchants trading to Virginia asserted that they had suffered large losses as they "have at all times large Sumes of money due to them there." B. T. Va. 27 Y 51.

[2] Hening VI, pp. 568, 569. 1755 Ch. 5.

[3] *Ibid.* VII, pp. 240, 241. 1758 Ch. 6.

[4] Moses Coit Tyler, who merely considered this law in so far as it affected the clergy, wrote somewhat emphatically: "Such, then, in all its fresh and unadorned rascality, was the famous 'option law,' or 'two-penny act,' of 1758: an act firmly opposed, on its first appearance in the legislature, by a noble minority of honorable men; an act clearly indicating among a portion of the people of Virginia a survival of the old robber instincts of our Norse ancestors; an act having there the sort of frantic popularity that all laws are likely to have which give a dishonest advantage to the debtor class." Patrick Henry, pp. 37, 38.

[5] B. T. Va. 26 X 49; 26 Y 22; Va. Mag. X, p. 347; Burnaby, Travels, pp. 49–52.

on that of the British merchant. The salaries of the Virginia clergy had been fixed in 1748 by a colonial law at sixteen thousand pounds of tobacco yearly.[1] As tobacco in 1758 was worth considerably more than twopence a pound, the "parsons" felt that they had been defrauded and complained bitterly. As far as the clergy was concerned, the matter was to some extent merely a local one, but as far as the British merchants were affected, this legislation involved fundamental imperial relations. In 1759 the merchants of London trading to Virginia presented a memorial against the act of 1758,[2] pointing out that they had large quantities of tobacco owing to them by Virginians, and that under this law, instead of delivering the merchandise, the planters could return the money paid for it. They said that when these contracts were made, the price was only twopence a pound, as there was then a large crop of tobacco on hand. Tobacco had, however, in the meanwhile risen from 16*s.* 8*d.* a hundred pounds to 27*s.* and as a result of the law, many of those signing the memorial had to repurchase at the higher price in order to load their vessels.[3] In other words, this act, whatever its intent may have been, had the direct result of rescinding contracts which had turned out unfavorably

[1] Hening VI, p. 88.

[2] B. T. Va. 26 X 67.

[3] In the "Parson's Cause" testimony was introduced showing that the price of tobacco in 1759 was 50*s.* a hundred. Maury, Memoirs of a Huguenot Family, pp. 418–420. See also Va. Mag. X, p. 350. This was in currency. Exchange at the time was 45 per cent. Va. Mag. XII, p. 2. Hence if figured in sterling, the price would be considerably less, and would approximate to that mentioned by the British merchants.

to Virginians. The British government, which was spending large sums on the defence of the colonies, naturally could not allow those who bore the main brunt of the war to be thus treated. Consequently, on August 10, 1759, an order in council was issued, disallowing this Virginia act, as well as those of a similar nature passed prior to 1758.[1]

This action aroused considerable ill-feeling in the colony. The clergy proceeded to bring suits to recover the difference between the market price of tobacco in 1758–1759, and twopence a pound. In one of these cases, in which the legal point at issue had already been decided in favor of the plaintiff and in which there remained to the jury only the duty of assessing the amount of the verdict, a young Virginia lawyer, Patrick Henry, appeared for the defendant. In his address to the jury, Henry contended "that the act of 1758 had every characteristic of a good law; that it was a law of general utility, and could not, consistently with what he called the original compact between King and people, stipulating protection on the one hand and obedience on the other, be annulled." From this he inferred "that a King, by disallowing Acts of this salutary nature, from being the father of his people, degenerated into a Tyrant, and forfeits all right to his subjects' obedience." This appeal was successful with the jury, which returned a verdict of nominal damages.[2] This fact and the

[1] B. T. Va. 26 X 103. It should be noted that the act of 1748 regulating the salaries of the clergy had been confirmed by the Crown, thus acquiring the validity of an act of Parliament. Consequently, on this ground, the legality of the "two-penny act" of 1758 was in itself open to serious question. Va. Mag. X, pp. 349, 354.

[2] Maury, *op. cit.* pp. 419–423.

subsequent popularity of Henry — he frankly admitted that his sole aim in speaking thus was to make himself popular — show how greatly the imperial tie was strained and how unwilling the colonies were to submit to any restraint interfering with their complete freedom of action.

Throughout the entire history of the Empire, the mother country had difficulty with the colonies over questions of this nature. Thus at this very time, objections were raised to bankruptcy laws that had been enacted both in Virginia [1] and in Massachusetts,[2] on the ground that they gave inadequate protection to British creditors. Similarly, in these years, Jamaica [3] also sought to raise unduly the value of its currency.

The experience with Virginia paper money during the war and the justifiable complaints of the British merchants [4] induced the imperial government to take steps to prevent such evils in the future. At various times prior to this, similar difficulties in other colonies had already brought this entire mat-

[1] B. T. Va. 27 Y 81. In 1763 the Glasgow merchants complained about this law. *Ibid.* Y 84. For other complaints, see *Ibid.* Y. 85, 86. In 1763 Virginia repealed this law. *Ibid.* Y 95. On the other hand, in 1761 the Virginia Committee of Correspondence asserted that the English bankruptcy law was not fair to the colonists. Va. Mag. XI, p. 19. Daniel Dulany also claimed that, if on the one hand the colonial bankruptcy laws were unjust to British merchants, so on the other were the British laws to colonial creditors. Considerations on the Propriety of Imposing Taxes (2d ed., Annapolis, 1765), p. 37. Obviously as the colonists were heavily in debt to the British merchants, the defects in the colonial laws had by far the more serious results.

[2] B. T. Journals 66, June 13, 1758; B. T. Mass. 77 Ii, no. 1.

[3] At a hearing before the Board of Trade, Feb. 29, 1760, Alderman Beckford, supported by others, contended that this Jamaica act of 1758 would greatly injure creditors. B. T. Journals 68, p. 59. *Cf.* p. 72.

[4] B. T. Journals 71, p. 41.

ter to the attention of the British government. The former immoderate issues of paper money by New England had had the result "that many fair Creditors and other persons not in debt lost half or three fourths of what was due to them, and of their personal Estate." [1] So great had the evil become that in 1740 the House of Commons passed a resolution condemning such practices. This resolution had little effect, especially as the war then being waged gave occasion for many fresh issues. In 1751, however, Parliament passed an act regulating the issue of paper money, and absolutely forbidding the New England governments — where this evil was worst — from adding a legal tender clause thereto.[2] This was in the nature of an act of censure, and consequently Parliament did not include in it those colonies that had not offended. In 1764, however, largely owing to the experience with Virginia, the Board of Trade reported that the principle of this bill was applicable to the other colonies as well, for "this measure of declaring paper bills of Credit to be Legal Tender was false in it's principles, unjust in it's foundation, and manifestly fraudulent in it's operation;" [3] and advised the passage of a comprehensive bill affecting all the colonies. Parliament, accordingly, in 1764, forbade the issue of legal tender paper money in the colonies.[4] This measure was absolutely essential in view of the bitter experiences of the British merchants.[5]

[1] B. T. Plant. Gen. 45, pp. 343–366.

[2] 24 Geo. II, c. 53.

[3] B. T. Plant. Gen. 45, pp. 343–366.

[4] 4 Geo. III, c. 34.

[5] Thomas Pownall fully recognized the intricate nature of the currency problem in the colonies, and favored the issue of paper money, but without the

Yet it was one of the factors in the subsequent separation,[1] for it caused some of the suffering that inevitably follows in the wake of an unsound monetary policy whose onward course is suddenly checked.[2]

In New York a question of fundamentally different nature led to similar consequences. One of the important results of the English constitutional struggles of the seventeenth century was the independence of the judiciary, which was secured both by appointing the judges during good behavior and also by attaching fixed salaries to their offices. The British bench was thus free from undue influences, both on the part of the Crown and on that of Parliament; its independence was contingent upon one condition as much as upon the other. In the colonies, on the other hand, neither condition obtained. The judges were appointed during the pleasure of the Crown, but careful provisions were made to prevent their arbitrary removal from office by the governors. On the other hand, the judges were dependent for their salaries on the local legislatures, which customarily made only annual

legal tender clause. He approved of this act of Parliament, and condemned "the outrageous abuses practised by some of those legislatures who have dealt in the manufacture of this depreciating currency." The Administration of the Colonies (2d ed., London, 1765), pp. 112, 113, 152, 153.

[1] In his examination before the House of Commons in 1766, Franklin mentioned this as one of the four causes of the change in American sentiment toward Parliament. Parl. Hist. 16, pp. 141, 142. *Cf.* also the "Late Regulations respecting the British Colonies" in Dickinson's Writings (ed. P. L. Ford) I, pp. 218, 227, 228.

[2] On June 14, 1765, Francis Fauquier wrote to the British government that currency had grown very scarce in Virginia because the Treasury notes were burnt as they came in for taxes; "this private Distress encreases the general Dissatisfaction at the Stamp Duties." Am. and W.I. 388.

provisions for them. This general rule had been departed from in New York by Governor Clinton, who appointed DeLancey to the position of Chief Justice during his good behavior, and also the inferior judges; DeLancey, in turn, when lieutenant-governor, had adopted this precedent.[1] This was in direct violation of the instructions issued to all the governors, but the British government not only made no objection, but even gave its approval to Clinton's action.[2] On the accession of George III, in 1760, the commissions of the New York judges had to be renewed. Colden, then the executive head of the colony, refused to issue them on the old terms, unless the legislature granted the judges fixed compensations. This the Assembly refused to do, thus frustrating Colden's object of obtaining an independent bench.[3] It was unquestionably advisable to free the judges from their dependence on the Assembly.[4] During the war they had shown a distinct partiality to those engaged in illegal trade with the enemy; and in 1761 Colden reported to the Board of Trade that the dependence of the judges on annual salary grants "may be highly prejudicial to the just rights of the Crown & the Acts of Trade."[5] The re-

[1] N.Y. Col. Doc. VI, p. 792; VII, pp. 705, 796; William Smith, Hist. of N.Y. II, pp. 289 *et seq.*

[2] N.Y. Col. Doc. VII, pp. 467, 468.

[3] A. M. Keys, Cadwallader Colden, pp. 272, 273.

[4] Pownall (*op. cit.* p. 79) called attention to this necessity. Soame Jenyns's statement that permanent salaries were needed for the judges because they were so dependent on the assemblies "that they can obtain a Livelihood no longer than *quam diu se male gesserint*" is somewhat overdrawn. The Objections to the Taxation of our American Colonies (2d ed., London, 1765), p. 14.

[5] N.Y. Col. Doc. VII, p. 467.

fusal of the Assembly to grant permanent salaries, according to Colden, meant "undue influence, not only in cases where the King's rights may be disputed, but likewise in private suits, where a leading man in an Assembly may be a party." [1]

This matter was thus brought to the attention of the Commissioners of Trade, who on November 11, 1761, reported thereon.[2] They correctly pointed out that the situation in Great Britain was quite distinct from that in the colonies, and remarked that of late years the colonial judges had become too frequently "the Partizans of a factious Assembly upon whom they have been dependent for their support, and who have withheld or enlarged that support according as the conduct of the Judges was more or less favourable to their Interests." Therefore the Board of Trade concluded that to appoint judges *quam diu se bene gesserint*, unless permanent salaries were granted, would be dangerous. This report was approved, and additional instructions to appoint judges only at the pleasure of the Crown were sent to the colonial governors.[3] In New York these instructions led to a temporary cessation of the work of the courts. The old judges refused to serve on such a tenure,[4] and the Assembly refused to grant a salary to Benjamin Pratt whom the Crown had appointed Chief Justice.[5] Accordingly, the Crown granted him a salary out of the royal quit-rent revenue, which was at this time beginning to yield

[1] N.Y. Col. Doc. VII, p. 470.

[2] *Ibid.* pp. 474, 475; B. T. Plant. Gen. 17 Q 21.

[3] N.Y. Col. Doc. VII, pp. 476, 479; N.J. Col. Doc. IX, pp. 329, 330.

[4] N.Y. Col. Doc. VII, p. 797.

[5] *Ibid.* pp. 483, 484; *cf.* pp. 500–505.

a fair surplus.[1] Shortly after this the other judges also submitted, and according to Colden, "the administrat[n] went on in its usual tranquility." [2]

Subordinate in importance to this dispute in New York, but essentially similar in nature, was that in New Jersey. The governors in this colony had naturally also been instructed to appoint judges only during the pleasure of the Crown.[3] Governor Lewis Morris had, however, disregarded this instruction, and had appointed Robert Hunter Morris as Chief Justice of New Jersey during his "good behaviour," [4] and a similar tenure had been bestowed on the judges of the inferior courts. On the arrival of Governor Josiah Hardy in New Jersey in 1761, he found that there was a total stoppage of justice, as the commissions had not been renewed on the death of George II. Hardy renewed these commissions in their existing forms, as otherwise the Assembly refused to grant any salaries.[5] In doing this, he violated not only his general instructions, but also the specific ones sent by the Board of Trade in 1761. His action incensed these Commissioners, especially as they feared its possible effect in New York, where the dispute was of a more serious nature; and accordingly, they immediately recommended Hardy's removal from office.[6] William Franklin, the son of the famous scientist and statesman, was appointed gov-

[1] Am. and W.I. 387, folio 8.
[2] N.Y. Col. Doc. VII, p. 797.
[3] N.J. Col. Doc. IX, pp. 39, 58.
[4] *Ibid.* IX, pp. 207–209, 231, 264. March 17, 1738.
[5] *Ibid.* pp. 345–349.
[6] *Ibid.* pp. 361, 362.

ernor in his place, and as in New York, so in New Jersey, the judges were compelled by the firmness of the government to accept commissions during the pleasure of the Crown.[1]

This dispute[2] served still further to increase the alienation between the two branches of the English people. In New York, especially, it aroused considerable ill-feeling.[3] Here, as elsewhere, an *impasse* had been created. The British government was certainly as sincere as was the colony in its efforts to preserve the purity of the bench. Yet the only way by which this desirable result could be fully obtained was cut off by mutual lack of confidence.

[1] N.J. Col. Docs. IX., pp. 364, 368.

[2] A few years later a great deal of friction was also created in New York by a question closely akin to this, involving the right of appeal to the governor from verdicts given by a jury. See A. M. Keys, *op. cit.* pp. 300–308. William Smith, writing to George Whitfield, Dec. 6, 1765, places this instruction about appeals among the three acts of the British government that caused the troubles in America. Dartmouth MSS., Hist. MSS. Com. XI, 5, p. 331.

[3] *Cf.* William Smith, Hist. of N.Y. (ed. 1829) II, pp. 289 *et seq.*

CHAPTER X

READJUSTMENT OF THE LAWS OF TRADE, 1763-1765

UNDER these conditions, when the imperial tie was already severely strained by a number of important controversies, and when, above all, the political equilibrium of the Empire had been destroyed by the removal of the French menace, the British government embarked upon a policy of vigorous reform. This movement naturally included within it a readjustment of the laws of trade and navigation to the new conditions created by the territorial gains in America.

The old English colonial system — by which is generally meant the various provisions regulating the trade of the Empire — was one of great complexity and intricacy. It was embodied in an unwieldy series of parliamentary statutes, about one hundred in all.[1] Extensive governmental control over commerce and industry was the current practice, and was based on the theory that the economic activity of the individual should be wholly subordinated to the welfare of the community. The primary object of the colonial system was to develop the wealth and power of the Empire. It was considered that this could best be accomplished by making

[1] On their appointment, in addition to the commissions and general instructions, the governors received a special set of detailed trade instructions, enumerating the various statutes with which they had to be conversant. See *e.g.* Trade Instructions to John Reynolds, governor of Georgia, Aug. 6, 1754. B. T. Ga. 14, pp. 233–318.

it a self-sufficient economic unit, independent as far as was possible of competing national groups. As Pownall expressed it, the aim was to create "one great commercial dominion." [1] In this commercial Empire, mother country and dependency were to be mutually complementary, one supplying, as far as was possible, the manufactured products consumed in the colony, and the other the tropical products and the raw materials not produced by Great Britain. All trade within the Empire was to be carried on exclusively in British and colonial shipping, with the object of increasing the Empire's naval strength. Great stress was laid on this side of the system, for the statesmen of the day recognized to its fullest extent the importance of "sea power."

In accordance with this system, a large number of colonial products received especial advantages in the British market by a system of preferential duties, by direct bounties, or by a combination of both, with the result that in a number of instances they acquired a monopoly thereof at the expense of foreign goods, with which under normal conditions they could not compete. On the other hand European and Asiatic products could be imported into the colonies only from Great Britain. There were important exceptions to this general rule, and in addition the British fiscal system was so arranged that on the payment of slight duties, foreign products could be, and in fact were, reëxported in large quantities from Great Britain to the colonies.[2] In the case of

[1] Pownall, *op. cit.* pp. 35, 202.

[2] The total exports from England to Pennsylvania for the twenty-five years from Christmas, 1722, to Christmas, 1749, amounted to £1,312,838, of which

some foreign products, however, such as manufactured iron and steel,[1] cordage,[2] sail-cloth,[3] and paper,[4] no part of the British duties was paid back on their reëxportation, and consequently in the case of these exceptional instances the system tended to give British manufactures a monopoly of the colonial market. In this connection, however, it should be noted that Great Britain paid bounties on a number of manufactures when exported to the colonies, thus decreasing their cost to the colonial consumer.[5] The system as a whole was thus based on the idea of the mutual reciprocity of the economic interests of mother country and colony. Its predominant characteristic is well emphasized in the French term describing it, — "*le pacte colonial.*"

The complex system erected on this basis naturally benefited some interests at the expense of others. This is inevitable whenever the government seeks to control the course of economic development and restrains the free

£343,789 consisted of foreign goods reëxported from England. Peter Kalm, Travels into North America (Warrington, 1770) I, p. 52.

[1] 2 and 3 Anne c. 9 § xii. *Cf.* B. T. Journals 25, p. 370.

[2] 6 Anne c. 19.

[3] 4 Geo. II, c. 27 § iii.

[4] 10 Geo. II, c. 37 § iv.

[5] Such manufactures were especially gunpowder, sail-cloth, and British and Irish linens. For details, see Treas. Acc. Rev. Misc. (England), Bundles 79 and 80. Certain classes of foreign manufactured silks, technically known as "lustrings or alamodes," were not entitled to any drawback. 8 and 9 William III, c. 36, § v. On the other hand, it must be remembered that Great Britain was trying to induce the colonies to produce silk and was spending considerable money on this scheme. Besides, bounties, about equivalent to the import duties on raw silk, were allowed on the exportation of British manufactured silks. Under these conditions, "respectable quantities" of British silks were sold in

play of competition. Some of the interests sacrificed for the good of the Empire were British, some colonial. Thus the Navigation Act proper, which gave British and colonial shipping a monopoly of the carrying trade of the Empire, while unquestionably protecting the ship-building and carrying trades of both old and New England, and also of some of the other colonies, was equally unquestionably at the outset burdensome to the plantation colonies, such as Barbados and Virginia. Then in so far as British legislation and policy discouraged manufacturing in the colonies, the manufacturer in the mother country benefited.

On the other hand, the British consumer was prevented from obtaining foreign products and was forced to smoke colonial tobacco, to eat colonial sugar, and to use colonial tar, all of which enjoyed a monopoly of the home market. Furthermore, in the interest of the colonial planter, though also partly for the sake of revenue, the British and the Irish farmers were prohibited from growing tobacco. There is no doubt that this prohibition, which in England met with violent and protracted opposition throughout a period of over fifty years,[1] entailed far greater sacrifice than did the British restrictions on colonial manufacturing.[2] These re-

foreign and open markets. J. Massie, Reasons . . . against . . . further British Duties on Wrought Silks (London, 1758), p. 13.

[1] On the difficulty of enforcing the law and the use of troops for this purpose during the reign of Charles II, see Privy Council Register, Charles II, 4, p. 117; 5, p. 377; 6, pp. 62, 507, 527, 528, 530, 532, 539, 547, 550, 552, 561, 563. These volumes are in the Privy Council Office, Downing St., London.

[2] The author of a proposal to prevent the colonies from manufacturing iron said: "The Restraining of our Colonys whom we protect by such Penalties

strictions were to a great extent superfluous, as under existing conditions, with land cheap and plentiful, the colonies had no inducement to manufacture extensively on a commercial scale.[1] From the economic standpoint, this phase of British policy in itself aroused little or no opposition in the colonies, not only because it did not in general run counter to their interests, but also because the laws were to a great extent necessarily ignored, as the imperial authorities had no adequate machinery to enforce them.[2]

As far as there was any opposition at all, it centred on the Iron Act of 1750. The main object and primary

from Manufacturing Iron to the prejudice of their Mother Country will not be a greater hardship upon them than the Prohibition of the Planting of Tobacco in Great Britain is to us." Brit. Mus. Lansdowne MSS. 846 f. 246.

[1] In 1751, in his "Observations concerning the Increase of Mankind," Franklin said that, on account of the vast quantity of unoccupied land in America, the danger "of these Colonies interfering with their Mother Country in Trades that depend on Labour, Manufactures, &c., is too remote to require the attention of Great-Britain." He therefore concluded that the mother country "should not too much restrain Manufactures in her Colonies," such legislation not being necessary. Franklin, Writings (ed. Smyth) III, pp. 65, 66. Nine years later, in his "Canada Pamphlet," Franklin said: "Manufactures are founded in poverty. It is the multitude without land in a country, and who must work for others at low wages or starve, that enables undertakers to carry on a manufacture." Such conditions, he added, did not prevail in America. *Ibid.* IV, p. 49.

[2] The despatches and reports of the colonial governors, though full of details about the development of colonial manufacturing, contain scarcely any references to the acts regulating the woollen, hat, and iron industries. In 1774 John Adams said that the hat act had not been regarded, and that the iron act had not been executed in Massachusetts. Novanglus, in Works (ed. C. F. Adams) IV, p. 49. The contemporary newspapers contain frequent advertisements of hat-makers. Burnaby (Travels, pp. 93, 115, 136) speaks of the manufacture of hats in Pennsylvania, New York, and Massachusetts.

purpose of this law was to encourage the production of bar and pig iron in the colonies, by removing the British customs duties thereon, thus enabling them to compete with Swedish iron on which these duties were retained. There was great opposition to this measure on the part of influential interests in England,[1] and it was seemingly in order to overcome this opposition and at the same time to give the mother country some compensation for the loss in revenue involved in this policy, that the further extension in the colonies of the iron and steel manufacture in certain of its more highly developed grades was forbidden. Thus this act had a tendency to benefit some colonies and to restrict industry in others. In neither phase was it very effective; but if the benefits and disadvantages did not balance one another, it was certainly not due to the greater weight of the latter.[2]

[1] Keith, Virginia (London, 1738), p. 182; Fleming MSS., Hist. MSS. Com. XII, 7, p. 357.

[2] According to the act, the governors were required to send to Great Britain certificates giving details as to the industry in each colony. These certificates show that it was still in a very rudimentary stage, and in some colonies in a declining condition. The certificate of Governor Hamilton states that in Pennsylvania and Delaware there were in all four such manufactories, of which one had not been in use for nine months. B. T. Prop. 18 V 73. The certificate of the Governor of New York is to the effect that in that colony there was only one such establishment, and this apparently an insignificant one. B. T. N.Y. 29 Hh 132. It is difficult to reconcile these facts with Burnaby's statement that both of these colonies, more specifically New York, were "exceedingly dissatisfied" with this act. Travels, p. 115. In Massachusetts there were in 1750 only three such plants, of which one was not in use. B. T. Mass. 73 Gg 34. In 1758 there were only two. There were in this colony, however, a large number of iron factories of a nature not affected by the act of 1750,—

In addition, some colonial products could be shipped only to Great Britain or to some other British colony. Such commodities were those not produced in the mother country, and which either were needed for consumption there or which, when reëxported from Great Britain to other European countries,[1] served to rectify a possible adverse balance of trade. This policy, technically known as that of "enumeration," in the case of some commodities, probably resulted in a lowering of the price to the colonial producer. But the corollary to this policy was preferential treatment to the enumerated product in the British markets. The system of indirect bounties by preferential duties in conjunction with the direct bounties paid on colonial products probably more than offset the restrictions of the enumeration policy. In the case of naval stores, these bounties alone enabled colonial pitch and tar to hold the British markets, and amounted to large sums, judged from the standpoint of the day.[2]

41 forges and 14 furnaces. *Ibid.* 76 Ii 59. Stephen Hopkins (The Rights of the Colonies Examined, Providence, 1765, p. 24) said that the colonies had carefully avoided "every interdicted manufacture." It should be noted that Rhode Island, of which Hopkins was especially writing, was not at all affected by this act of 1750, as there was no mill or engine for slitting or rolling iron, or any plating forge to work with a tilt-hammer, or any furnace for making steel in the colony. B. T. Prop. 18 V 75; Col. Rec. of R.I. V, p. 314.

[1] See Keith's Memorial, 1728. Am. and W.I. 602; B. T. Plant. Gen. 10 L 105.

[2] In 1722 £62,144 was paid; in 1735 £29,358. Admiralty, Accountant General, Treas. Ledgers, vols. 139 and 168. In 1766 the navy's debt included £45,591 for such bounties. Treas. Misc. Various, Bundle 197 (Treas. Book of Payments, 1760–1769, p. 31). See also Admiralty, Accountant General Misc. Various 47, and Commons Journal 29, p. 418.

The imperial character of the system was strongly emphasized.[1] It followed, however, from the very fact that Great Britain was the heart of the Empire, on whose well-being the prosperity of the whole primarily depended, — because upon the mother country fell virtually the entire heavy burden of imperial defence, — that any industrial development in the colonies which tended to weaken the mother country was discouraged. Hence the economic life of the colonies was subordinated to that of the mother country, and was directed into channels that did not run counter to the welfare of Great Britain.[2] Any other policy would have been deemed suicidal. Such subordination did not, however, imply a sacrifice of the colonies, for their

[1] Thus we read in a pamphlet published in 1765, that the Parliament of Great Britain alone can "execute such Measures, as equally relate to all. This Power it has at all time exercised with impartial Sway, and has extended its parental Care to every part of the British Dominions; as each has on different Occasions particularly called for its Attention. No Preference, no Privilege, no Exemption is allowed to any, not even to Great Britain, when her particular Interests seem incompatible with this greater system." The Regulations Lately Made (London, 1765), pp. 43, 44.

[2] In 1728 Keith wrote that "all advantageous Projects, or Commercial Gains in any Colony, which are truly prejudicial to, and inconsistent with, the Interest of the Mother State; must be understood to be illegal, and the Practice of them unwarrantable, because they contradict the End for which the Colony had a Being, and are Incompatible with the Terms on which the People Claim, both privilege and Protection." When a colony is thus regulated, it "ought to be carefully Nourish'd and it's just Interests well guarded; No little Partial Project or Party Gain shou'd be suffer'd to affect it, but rather it ought to be consider'd & weigh'd in the General Ballance of the whole State, as an usefull and profitable Member; For such is the End of all Colonies, and if this use cannot be made of them, it wou'd be much better for the State to be without them." Am. and W.I. 602; B. T. Plant. Gen. 10 L 105.

economic development was in general not deflected from its normal course. Nor, on the other hand, did it mean absolute predominance of British interests. As has been pointed out, these had been obliged, in a number of instances, to yield to the welfare of the Empire. It is significant that Great Britain denied the insistent requests of English ship-builders for protection against the colonial industry, because such a measure would have interfered with the expansion of British sea power as a whole. In fact, it would be difficult to estimate whether colony or metropolis was called upon to bear a greater proportion of the sacrifice demanded by the prevailing ideal of a self-sufficient commercial Empire.

History, however, is to a great extent based on social psychology, and in studying the dynamic effects of any policy on the relations of two social groups, it is frequently far more important to know what people at the time thought were the results, rather than what these actually were. Naturally, those interests, whether British or colonial, that were called upon to bear the sacrifices inevitably involved in so complex a system of commercial regulation felt aggrieved. A prominent British complaint was that nearly all the duties on foreign products shipped from Great Britain to the colonies were repaid, and that consequently the colonial consumer obtained these commodities at a lower price than did his fellow-subject in Great Britain, on whom fell the chief burden of imperial defence.[1] Then, the British consumer

[1] The well-known economic writer, Joshua Gee, in a very interesting memorial to the Board of Trade, endorsed as received on Oct. 27, 1721, opposed this system, saying, "I could never See a reason why the Subjects of Great

opposed the monopoly accorded to many colonial products. Similarly, there was some objection to the colonial planter receiving bounties, while the British farmer was not entitled to them though he paid the taxes that they necessitated.[1] Joseph Massie, one of the best informed of contemporary publicists, claimed that the British West Indies had robbed the nation of ten million pounds sterling through the exorbitant price of sugar.[2] This price was a direct result of the preferential duties. On the other hand, the colonies recognized that, in consequence of the system, they paid more

Brittain, who have all along paid very great taxes to support the Government, and have been at the expense of convoys to protect the Plantation Trade, should bear So much, and the Plantations who have never paid any taxes, Should not pay the Comon duties of Linnens &c. worn in England." B. T. Plant. Gen. 10 L 24. This memorial was the basis of Gee's well-known book, "The Trade and Navigation of Great Britain Considered," published eight years thereafter. Then, in 1732, the philanthropist, Thomas Coram, in a memorial addressed to the Board of Trade, advised the abolition of these drawbacks, because in consequence of them the colonies "have such goods much Cheaper than the Inhabitants of this Kingdom who ever bear the Burden & Charge of Protecting the Plantations." B. T. Plant. Gen. 11 M 31.

[1] An English writer in 1766 commented on the lot of the British consumer, who had to buy British colonial sugar, tobacco, rice, pitch, tar, turpentine, indigo, which were all favored by heavy duties on foreign products; and on the fact that the British taxpayer paid bounties on many colonial products, though the producer of the same commodities in the mother country would not be entitled to them. A Letter from a Merchant in London . . . relative to the Present Posture of Affairs in the Colonies (London, 1766), pp. 23–25.

[2] J. Massie, Brief Observations concerning the Management of the War (London, 1761), pp. 8–9. In 1753 a petition against the high price of sugar was presented to the House of Commons. The British West Indies contended at the time that "allowing foreign sugar to be imported" would entirely ruin them. B. T. Journals 61, April 3, 1753. In 1757 Josiah Tucker said that

for some European manufactures and likewise that they received for some of their products less than would have been the case under unrestricted conditions.[1]

Thus there were complaints from both interests affected; in the main, however, it was considered that the system favored the mother country. In the first place, by virtue of it Great Britain enjoyed a monopoly of the colonial trade, foreigners being entirely excluded therefrom. This was of course not an absolute monopoly, but one in which the colonial traders, especially those of New England, participated. Then, while the mother country levied import duties on colonial products, the colonies were forbidden to impose similar taxes on commodities brought from Great Britain.[2] At the time there prevailed only vague and indefinite ideas as to the real incidence of such taxes, and many in the colonies thought that they, and not the British consumer, paid the British customs duties.[3] On the other hand, the

French sugars "are almost *Cent per Cent* cheaper" than the British West Indian product. Instructions for Travellers (London, 1757), p. 31.

[1] Franklin to Shirley, Dec. 18, 1754. Franklin, Writings III, pp. 232–237. See also Lettres de Montcalm (London, 1777), pp. 2–10.

[2] See Order in Council, Aug. 22, 1724, that instructions to this effect be sent to the governors. B. T. Plant. Gen. 10 L 53. *Cf.* also Am. and W.I. 1, no. 267; B. T. Journals 34, pp. 126, 127.

[3] In so far as these taxes diminished consumption in Great Britain, they decreased the demand for, and consequently the price of the colonial product In 1759 Parliament granted an extra subsidy, which added one penny a pound to the British duties on tobacco. 32 Geo. II, c. 10 § 1. To this increase there was great opposition in Virginia. The Virginia Committee of Correspondence instructed the colony's agent in London to oppose this step, which they called "a great grievance to the people." The new duty had, however, already been passed. Va. Mag. X, pp. 339, 340, 342, 343. An Englishman travelling in

inability to impose duties on imports from the mother country limited the colony's complete freedom of action.[1] It was in this respect that the system was least satisfactory to men of marked individualism, such as were the colonists. With their keen desire for complete self-government, they naturally to some extent objected to a system by which their foreign trade, and in a few instances even industry within the colonies themselves, was regulated by a legislative body over which they had no control, and whose power was unlimited.[2]

Thus neither British nor colonial interests were fully satisfied with the system, and on the whole it was considered more favorable to the metropolis than to the colony. This system, however, did not stand by itself, but was integrally connected with that of imperial defence. What Patrick Henry called the "original compact between King and people, stipulating protection on the one hand and obedience on the other," was not a mere empty formula. The right of

Virginia at this time, said: "They consider the duties upon their staple as injurious only to themselves; and it is utterly impossible to persuade them that they affect the consumer also." Burnaby, Travels, pp. 56, 57.

[1] In 1754 Franklin wrote: "We are not suffered to regulate our trade, and restrain the importation and consumption of British superfluities (as Britain can the consumption of foreign superfluities)." Writings (ed. Smyth) III, p. 236. For a similar statement, made by Franklin in 1766, see *Ibid.* IV, p. 402.

[2] Hence there was some objection to all inquiries into economic conditions within the colonies, because the scope of the possibly ensuing legislation could not be foreseen or controlled. In 1758 the British government instructed the colonial governors to furnish it with details as to the iron industry in the colonies. In sending the desired information, Governor Pownall of Massachusetts wrote: "The People since the late Act restraining the Number of Slitting Mills are extreamly jealous of these kind of Inquiries." B. T. Mass. 76 Ii 59.

the mother country to regulate imperial trade, and the general manner in which this right was exercised, were justified in the eyes of nearly all, whether British or colonial, by the fact that through her navy Great Britain protected the colonies in peace and in war. Thus, in 1756, in connection with a Massachusetts law for encouraging the manufacture of linen in that colony, the Board of Trade wrote to Shirley: "The passing of Laws in the Plantations for encouraging Manufactures, which any ways interfere with the manufacture of this Kingdom, has always been thought improper, & has ever been discouraged. The great Expence, which this Country has been and is still at, for the defence and Protection of the Colonies, while they on the other hand contribute little or nothing to the Taxes with which it is burthen'd, gives it a just Claim to restrain them in such Attempts." [1] The same idea is also clearly expressed by Arthur Dobbs, when writing to the Earl of Halifax that he would do his utmost to stop "all such pernicious Illicite Trade Carryed on with foreigners to the prejudice of the British Trade with these Colonies after the Immense Expence and Debt incurred in defence of our Civil and Religious Rights and Liberties and future Safety of the Extensive British Empire on this Continent and Islands: and therefore the Confinement of our Trade for the benefit of Britain against foreigners is a Tribute we ought to pay to our protectors." [2] As Dobbs was an able student of economic conditions, and as such had freely criticised on a some-

[1] B. T. Mass. 84, p. 328.

[2] Jan. 14, 1764. Am. and W.I. 214.

what comprehensive scale certain features of the system, his statement is all the more significant.

Thus the fact that the mother country afforded protection gave an equitable basis to the colonial system, and justified it in the eyes of those to whom otherwise it would have appeared unfair to the colonies. During the eighteenth century, up to the controversies at the beginning of the revolutionary movement in 1764 and 1765, the colonies made no complaint against the trade laws as a whole. During these two generations there were many acute political controversies, but this system did not figure in them at all.[1] The colonial attitude is well represented by Franklin, who, in 1754, after enumerating solely those regulations that restricted colonial trade, said: "These kind of secondary taxes, however, we do not complain of, though we have no share in the laying, or disposing of them." [2] As Franklin had an intellectual tendency toward those *laissez faire* ideas that two decades later were embodied in Adam Smith's monumental work, this is certainly not a prejudiced statement. Similarly, in 1764, James Otis, the leader of the revolutionary movement in its earlier phases, after calling attention to the fact that the colonies were "confined in their imports and exports, to the good of the metropolis," wrote: "Very well, we have submitted to this. The act of navigation is a good act, so are all that exclude foreign manufactures from the plantations, and every honest man will readily subscribe to them." [3]

[1] Naturally, the Molasses Act, as in no sense an integral part of the system, is excepted from this statement.

[2] Franklin, Writings III, p. 236.

[3] James Otis, The Rights of the British Colonists Asserted and Proved (Boston, 1764), pp. 54, 55. *Cf.* also pp. 58, 76.

It should be noted, however, that a Swedish scientist who had travelled extensively in America, and had carefully observed many matters of interest, stated that as a result of the pressure of this system, the colonies were less warm to the mother country.[1] This in itself would not be surprising, as communities have always shown a tendency to dwell on the disadvantages and to ignore the benefits involved in a system of this nature. The accuracy of this observation is, however, open to question. The validity of the general doctrine that the mother country and not foreigners should supply the colonies, "provided the Mother Country can & does supply her Plantations with as much as they want" was admitted in 1762 by the Virginia Committee of Correspondence in a letter to the colony's agent in London.[2] Furthermore, men enjoying to the full the confidence of the colonies, even favored a more restric-

[1] "Genom et sådant tryckande sker, at Angelska Inwanarena uti Norra America åro mindre warme mot sit Moderland." Kalm, En Resa Til Norra America (Stockholm, 1756) II, p. 371. As this passage, together with the unhistorical habit of regarding past events from the viewpoint of a later age, has furnished the basis for the current thesis that the old colonial system, as it existed prior to 1763, was the fundamental cause of the American Revolution, it is advisable to give the context. After the above statement, Kalm says: "This coldness is kept up by the many foreigners such as *Germans*, *Dutch*, and *French* settled here, and living among the *English*, who commonly have no particular attachment to *Old England;* add to this likewise that many people can never be contented with their possessions, though they be ever so great, and will always be desirous of getting more, and of enjoying the pleasure which arises from changing; and their over great liberty, and their luxury often lead them to licentiousness." Travels into North America (Warrington, 1770), II, pp. 264, 265.

[2] Va. Mag. XI, p. 137.

tive system than was the prevailing one. In 1723, Francis Yonge, then the agent for South Carolina, and four years prior thereto one of the leaders of the revolution in that colony, presented a memorial to the Board of Trade, in which he advocated a more stringent regulation of colonial trade.[1] Similarly, in 1755, William Bollan, when agent for Massachusetts, presented to the Board of Trade a detailed memorial on the legal defects in the acts of trade, with a view to their remedy, and consequently a better enforcement of the system as a whole. At the same time he advised the placing of all kinds of colonial naval stores in the "enumerated list."[2] It is also not without some significance that Bollan was appointed agent, though he had been the prosecuting officer in the colonial Vice-Admiralty Court, and, as such, had for years been engaged in punishing violations of these laws.[3] Similarly, James Otis resigned from this position only at as late a date as 1761, in order to attack the use of "writs of assistance." There seems to be no adequate reason for rejecting Burke's view that during the eighteenth century, prior to 1764, the attitude of the colonies toward the system was one of acquiescence. "The act of navigation," he said, "attended the colonies from their infancy, grew with their growth, and strengthened with their strength. They were confirmed in obedience to it, even more by usage than by law."[4]

[1] B. T. So. Ca. 1 A 86.

[2] B. T. Mass. 74 Hh 51, 52; John Chamberlayne, Magnæ Britanniæ Notitia, part II, p. 59.

[3] Lords of the Admiralty to Sir Henry Penrice, April 19, 1742, ordering the appointment of Bollan as advocate of the Vice-Admiralty Court in Massachusetts. Adm. Sec. Out-Letters, 1054.

[4] Burke's Speeches (ed. 1816) I, p. 202.

It would even appear that instead of being a disintegrating factor, the system of trade regulation tended to give greater cohesion to the Empire. As has been pointed out, British policy had never been consistently directed toward creating a closely knit political empire. The aim was rather to create a self-sufficient economic empire, and, in the main, this result had been attained. The West Indian colonies were absolutely dependent on the monopoly of the British markets that had been accorded to them. Similarly, the prosperity of the continental colonies depended, in varying degrees, on the one hand on the British markets, or on the other hand on British colonial markets. The least dependent colonies were those producing tobacco; for through the long period during which it had enjoyed a monopoly, American tobacco had gained a firm hold on the British consumer. Hence it is not surprising to find that at this time there was some objection in Virginia to the "enumeration" of its staple crop.[1] South Carolina, though absolutely independent in so far as rice was concerned, relied upon the British bounties on naval stores and indigo. North Carolina was similarly affected by the premiums on tar and pitch. The middle colonies and those of New England were especially dependent on those other British colonies that in the event of political independence would probably not throw in their lot with North America. The fisheries, the lumber industry, the provision trade, demanded free access to the British West Indies as well as to those of foreign nations. Then, only because they were British colonies, was the large trade to Newfoundland open

[1] Burnaby, *op. cit.* p. 56.

to them. To some degree also these colonies relied on the naval-store bounties. In addition, the prosperity of their ship-building industry depended to a great extent on the sale of vessels to Great Britain, and on the large carrying-trade between various parts of the Empire. Once politically separated, the Navigation Acts would automatically shut off the sale of these ships and also a considerable portion of the carrying-trade. Thus, while on the one hand political separation meant some economic advantages, on the other it meant both the assumption of the burden of naval defence, hitherto borne by the mother country, as well as the entire cost of purely military defence, — and also important and concrete economic disadvantages. To those in the colonies contemplating such a contingency, the risks must have appeared sufficiently formidable "to give them pause." Hence, as far as this was realized, the system tended in the direction of greater imperial cohesion, and ran counter to the strongly marked tendency toward political disintegration.

Prior to 1763, the general attitude of the colonies toward the laws of trade and navigation was one of acquiescence. It should not, however, be inferred from this that complaints were not made against specific features of the system.[1]

[1] The chief alteration desired at this time was permission to import salt into the Southern colonies directly from Europe. The Northern colonies were allowed to do this in the interest of the fishery, and the Southern colonies claimed that Portuguese salt was better adapted to preserving provisions than that of England or that of the West Indies. In estimating the importance of this complaint, it should be noted that such salt could easily be shipped to these colonies *via* those north of Maryland. Parliament refused to grant this request, fearing that it would lead to the direct importation of other goods from

Such complaints were carefully, though rather deliberately, examined,[1] and if found compatible with imperial interests, were then rectified. In addition, the system was also criticised, in certain of its broader features, by men who had no immediate personal interest in the changes that they advocated, but who recognized that some provisions could be altered to the advantage of the Empire as a whole. Such a critic was Arthur Dobbs, the governor of North Carolina, who had written with ability on the trade and industry of Ireland, and who had opposed with vigor the monopoly of the Hudson's Bay Company.[2] In 1755 he wrote to the Board of Trade advising a number of changes in the commercial system. As an Irishman, he especially favored the relaxation of the laws so as to allow closer commercial relations between Ireland and America, but in addition he proposed that it be permitted to import salt directly from Europe into all the colonies, and also wines from Spain and Portugal.[3]

Apart from the merits of Dobbs's specific proposals,

Europe. Va. Mag. XI, pp. 137–143; *Ibid.* XII, pp. 6, 8; B. T. Va. 27 Y 108; B. T. No. Ca. 12 C 55, 86; *Ibid.* 14 E 77; B. T. Prop. 19 V 133; B. T. So. Ca. 15 I 50, 57; *Ibid.* 27, pp. 245, 246; Am. and W.I. 20, nos. 9, 151.

[1] Thus Keith said that whenever the regulation of colonial trade was considered, it was customary for Parliament or the Privy Council to send both for those representing the colonies and for the London merchants, "with Intent, no Doubt, to do equal Justice between them." Keith, Virginia, p. 179. The Board of Trade Journals contain full accounts of a large number of such hearings.

[2] Dictionary of National Biography XV, p. 132; Palgrave, Dictionary of Political Economy I, p. 610; Cunningham, Growth of English Industry and Commerce, II, p. 283.

[3] B. T. No. Ca. 12 C 54, 69, 86. Dobbs repeated this advice in 1764, but at the same time he upheld the justice of the system as a whole. Dobbs to Hali-

it is obvious that so complex a system required continual readjustment to the changing conditions. It is equally patent, however, that there was great difficulty and even grave danger in amending it in part. Consequently there was a tendency to leave the broader features of the system untouched, so long as it answered its main purposes. There is a peculiarly modern ring in the Board of Trade's answer to Dobbs. The Commissioners freely admitted that the proposed alterations appeared advisable in the light in which Dobbs put them, but pointed out that "there is such a variety of Circumstances necessary to be attended to in the consideration of a Question of this kind, that We dare not venture to give an Opinion upon it, without a very precise and thorough Examination of the Effect and Operation of the Laws of Trade in every light and view of them. We are sensible of a great many Errors and Defects both in the policy and frame of those Laws, and that they do not properly consist and correspond with each other, but We cannot but think, that it

fax, Jan. 14, 1764. Am. and W.I. 214. Similarly, in the same year, Thomas Pownall, though fully approving of the basic principles of the old colonial system, suggested some radical changes. He proposed that all colonial products, except such as were raw materials for British manufactures, should be allowed to be exported directly to any foreign market on payment of the British duties; and likewise that all foreign products, except such as interfered with British manufactures, should be allowed to be imported directly into the colonies on payment of the British duties. Such direct trade with foreign countries, however, Pownall said should be confined to ports where British merchants were permanently established. What Pownall objected to, and what he primarily wished to abolish, was the roundabout voyage *via* Great Britain in such instances where it subserved no useful purpose. "It can never be right policy," he wrote, "to suffer labour in vain in a community." Pownall, The Administration of the Colonies (2d ed. London, 1765), pp. 27, 181–190.

would be dangerous to enter into an Examination of them with a View to one Inconveniency only; and therefore whenever the Circumstances of the Times will admit of a Consideration of this Matter, the whole must be entered into together." [1]

The conditions created by the peace of Paris, especially the territorial acquisitions on the continent and in the Caribbean, necessitated such a readjustment. One of the chief commercial advantages accruing to Great Britain, as a result of the cession of Canada, was a monopoly of the fur trade. Hitherto this trade had been almost entirely in the hands of the French,[2] except in so far as it was carried on by the Hudson's Bay Company, and to "a very inconsiderable Quantity thro' the province of New York." [3] Of these furs, by far the most important was beaver. In 1752 only 63,651 beaver

[1] B. T. No. Ca. 22, pp. 194, 195.

[2] It was said that furs to the value of £135,000 were yearly imported into France from Canada. B. T. Plant. Gen. 17 Q 37, 39, 40. On June 5, 1762, Governor Murray reported from Quebec that the exports of fur, according to the Canadian custom-house books, fell short of this amount because a good deal was smuggled out. He added that there was "a strong Presumption, that in this, as indeed in every other Branch, the Publick was ill served." *Ibid.* 17 Q 42.

[3] As a result of this monopoly, Great Britain was also in a position to supply the Indians with all the manufactures they needed. Even before the conquest of Canada, a comparatively large quantity of British manufactures had been sold to the Indians, mainly, however, indirectly by means of the French traders. Board of Trade's Report, 1763, in B. T. Plant. Gen. 45, pp. 212–262. Among other advantages resulting from the war, the Board of Trade called attention to the great increase in the available supply of masts and of lumber, to the prospects of getting silk and indigo from Florida and Georgia, and to the probability of an increase in the supply of sugar owing to the gains in the West Indies. Though not germane to this essay, it may be mentioned that

skins were imported into England, of which 33,830 came from Hudson's Bay and 27,451 from New York.[1] In 1762 the total imports had risen to 173,586 skins, of which 93,630 came from Quebec, 50,499 from Husdon's Bay, and only 14,912 from New York.[2]

Beaver was an enumerated commodity, and, as such, could not be shipped directly from the colonies to foreign countries. On importation into Great Britain, it paid duties which, however, were in part drawn back on reëxportation.[3] A large proportion of the beaver thus imported into England was again reëxported,[4] and consequently the foreign manu-

the acquisition of Senegal in West Africa broke France's monopoly of the gum trade.

[1] B. T. Com. Series II, 626 B 6.

[2] *Ibid.* B 7.

[3] Duty, 7 pence $\frac{3}{20}$, $\frac{5}{7}$; drawback, 4 pence $\frac{6}{20}$, $\frac{13}{16}$. B. T. Plant. Gen. 45, pp. 380–386.

[4] Beaver Skins Imported into and Exported from England from Christmas, 1749, to Christmas, 1763

	Imports	Exports
1750	62,043	35,393
1751	54,204	32,540
1752	63,651	33,499
1753	74,952	21,502
1754	43,023	25,535
1755	46,348	16,373
1756	36,070	14,921
1757	36,759	9,670
1758	31,604	10,479
1759	27,876	27,610
1760	46,495	19,505
1761	101,011	39,893
1762	173,586	43,944
1763	128,492	129,801
	926,114	406,665

Duty, £27,710. Drawback, £8,331.

B. T. Com. Series II, 626 B 11.

facturer of hats obtained this raw material as cheaply as, if not more so than, his British competitor. The English hat-makers naturally complained of this disadvantage, and urged that instead of repaying part of the duty on beaver reëxported from Great Britain, an export duty should be imposed thereon.[1] In this connection, the Board of Trade reported that the existing conditions gave an advantage to foreign manufactures, "that ought in Justice and Policy to be thrown into the other Scale, if it can be done without prejudice to the Trade in general." [2]

The Hudson's Bay Company, however, opposed the suggested export duties, as they would have a distinct tendency to lower the price that could be obtained by the company for its beaver skins. Accordingly, the Board of Trade decided on a compromise, and recommended the abolition of the British import duties on beaver,[3] it being a raw material, and in lieu thereof the imposition of an export duty of seven pence a skin.[4] In 1764 Parliament adopted this suggestion, abolishing the old duties, and substituting therefor a nominal import duty of one pence a skin, and an export duty of seven pence.[5]

The increased area of the Empire on the continent of America likewise brought up again the question of producing hemp in the colonies. England imported large quantities

[1] B. T. Com. Series, I, 49 Ii 33–35.

[2] B. T. Plant. Gen. 45, pp. 380–386.

[3] Except only a small duty to insure regular entries.

[4] And 1*s.* 6*d.* a pound on beaver wool. B. T. Plant. Gen. 45, pp. 380–386.

[5] 4 Geo. III, c. 9, § ii. The import duty could not be drawn back. *Ibid.* § iv.

of hemp, the chief source of supply being Russia,[1] and in turn reëxported some to the colonies.[2] Naturally, from the viewpoint of pure mercantilism, and also in conformity with the ideal of a self-sufficient Empire, it would be highly desirable if freedom from this dependence on Russia could be attained. In addition, as hemp was extensively used in the navy, an adequate British supply would result in greater national security.[3] Accordingly, early in the eighteenth century, Parliament had offered large bounties to encourage the production of hemp in the colonies. This policy had been a complete failure,[4] and hence had been allowed to lapse. In 1763, however, a number of London merchants

[1] Imports of hemp into England from Christmas, 1758, to Christmas, 1762:

1759	544,286 cwt.	1761	285,610 cwt.
1760	220,861	1762	272,820

Of this none came from the colonies except 36 cwt. from Pennsylvania in 1760.

B. T. Com. Series II, 626 B 1.

[2] Foreign hemp reëxported from England:

	CHRISTMAS, 1762, TO CHRISTMAS, 1763	CHRISTMAS, 1763, TO CHRISTMAS, 1764
New York	——	1,512 cwt.
New England	12,900 cwt.	20,967
Pennsylvania	460	520
Montserrat	113	——

B. T. Com. Series II, 626, Oo 29.

[3] In 1763 a pamphlet was written to urge the colonists to raise hemp and flax, with a view to strengthening British naval power against "those sulky Barbarians, who no doubt in a little time will feel their own Power, and from the same Inducement (tho' with greater Rapidity), like Goths and Vandals, overrun all Europe." Considerations on the Present State of our Northern Colonies (London, 1763), p. 12.

[4] During the period from Christmas, 1712, to Christmas, 1728, the entire quantity of hemp imported into England from the American colonies was only 316 cwt., 2 quarters. B. T. Plant. Gen. 15 P 14.

trading to North America petitioned for a revival of these bounties.[1] On February 9, 1764, the Board of Trade reported in detail on this suggestion,[2] and attributed the former failure of this policy, on the one hand to the fact that those parts of America best suited to the growing of hemp had hitherto remained uninhabited, and on the other hand to the fact that other commodities had yielded a more certain profit. The Board of Trade added that at this time different conditions obtained, especially as tobacco and rice had been pushed to their utmost limits. This report then pointed out that the chief obstacles to be overcome were the dearness of labor in the colonies and the high freight rates from them. In 1756 the price of Russian hemp in England was £21 to £22 a ton, while American hemp could not be supplied for less than £29. To counteract this difference the commissioners suggested that colonial hemp receive a bounty of £8 a ton for the first seven years, of £6 for the subsequent seven years, and of £4 during a third period of the same length. In 1764 Parliament adopted this recommendation, and by statute ordered the payment of the bounties proposed by the Board of Trade on hemp and undressed flax imported into Great Britain from the American colonies.[3]

Though these bounties did not accomplish the desired result,[4] they, as well as other measures passed at the time,

[1] B. T. Plant. Gen. 19 R 18; 45, p. 322.

[2] B. T. Plant. Gen. 45, pp. 366–379.

[3] 4 Geo. III, c. 26.

[4] Sheffield, Observations on the Commerce of the American States (London, 1784), p. 48. During the year from Jan. 5, 1768, to Jan. 5, 1769, the following quantities of hemp were exported from America to Great Britain: from

show the desire of the British government to further the economic development of the colonies, and its willingness to devote British funds to such purposes with the object of increasing the self-sufficiency of the Empire. Thus in 1763 the bounty on colonial indigo imported into Great Britain was continued, but was reduced to an amount sufficient to keep the industry well established.[1] Under this system, South Carolina had acquired a new and valuable crop, and even in their reduced form the bounties constituted a not inconsiderable charge on the British exchequer.[2]

The conquest of Canada and its subsequent cession to Great Britain led to the discovery and the rapid development of the whale fishery in the Gulf of St. Lawrence.[3] Parliament had passed a number of laws with the design to encourage this industry in the waters of Greenland and Davis's Straits.[4] Thus whale-fins caught in that region were freed from all duties,[5] and in addition, in 1733 bounties were granted to British ships proceeding from any port in Great Britain to those waters for the purpose of catching whales.[6] Subsequently, these bounties were extended to colonial shipping.[7] The aim of this policy was to increase

Maryland, 9 tons 13 cwt.; from Virginia, 388 tons 14 cwt.; from North Carolina, 9 tons 5 cwt. Brit. Mus. Addit. MSS. 15485.

[1] 3 Geo. III, c. 25 §§ i, ii; B. T. So. Ca. 20 M 49; B. T. Journals 70, p. 257.

[2] These bounties amounted to £9030 in 1764, £7484 in 1765, and £6808 in 1766. B. T. Com. Series II, 626, Pp 44.

[3] B. T. Mass. 78 Ll 67, 68.

[4] 9 and 10 Wm. III, c. 45 § iii; 1 Anne stat. 1, c. 16.

[5] 10 Geo. I, c. 17; 12 Geo. I, c. 26 § vii.

[6] 6 Geo. II, c. 33.

[7] 22 Geo. II, c. 45, §§ v, vi.

the supply of seamen for the navy, and to free Great Britain from her dependence on the Dutch whalers. This end had been partially attained. But under this system, whale-fins from other parts of America not only had to pay duties in Great Britain, but in addition had to compete against the bounties given to the Greenland ships. In the preceding two decades, it is true, virtually no whale-fins had been imported from America;[1] the discovery of the fishery in the St. Lawrence, however, altered matters materially. Massachusetts engaged extensively in this industry, and her agent set about securing a more favorable treatment for the American product.[2] A petition was presented,[3] stating that in

[1] Whale-fins imported into England from America:

Average of 7 years	1725–1732	3846 cwt.
Average of 7 years	1732–1739	433
Average of 9 years	1739–1748	36
Average of 7 years	1748–1755	15
Average of 7 years	1755–1762	65
Average of 7 years	1762–1769	1078

B. T. Com. Series II, 626 Q 9. For the statistics for 1704 and 1705, see B. T. Plant. Gen. 37, p. 125. These figures dispose of the assertion made in 1765 that at the time of the removal of the duties on the product of the Greenland fishery, the American industry was "too inconsiderable an object to attract the publick Notice." The Regulations Lately Made (London, 1765), p. 48. In this connection also, it should be noted that, in 1732, Thomas Coram advised the Board of Trade to place American whale-fins on the same footing as those from Greenland. B. T. Plant. Gen. 11 M 31.

[2] On Jan. 25, 1764, Thomas Whately, Secretary to the Lords of the Treasury, sent this petition to the Board of Trade. B. T. Com. Series I, 49, Ii 31.

[3] On Dec. 30, 1763, Jasper Mauduit wrote from London to the Speaker of the Massachusetts House of Representatives, that his brother Israel had undertaken this matter, and that after having talked with Grenville and the Secretary of the Treasury, he had drawn up a petition which had been approved

1763 Massachusetts had fitted out eighty vessels for this St. Lawrence whale fishery; that a large quantity of whale-fins had already been imported thence to London; and that on them a duty of £31, 10*s*. a ton was demanded, which was very high, especially as the value of whale-fins had fallen from £550 to £330 a ton since the opening of this trade. After referring to the bounties given to the Greenland fishery, the petitioners said that they did not ask for similar favors, but only that the duties be abolished.[1] The Board of Trade passed favorably on this petition, pointing out that whale-fins were a raw material, for which in great measure England depended on foreign nations, and recommended to Parliament the removal of the duties complained of.[2] Parliament adopted this suggestion, and in 1764 repealed these duties, with the exception of the insignificant ones that had been imposed in 1673.[3]

The immediate effect of this preferential treatment in

by the Treasury department and by the Board of Trade. Coll. Mass. Hist. Soc. Series I, vol. VI, p. 195.

[1] *Ibid.* Ii 32, 48.

[2] B. T. Plant Gen. 45, pp. 386, 387.

[3] 4 Geo. III, c. 30. The duties that still had to be paid amounted to less than one per cent. In 1673, in order to encourage the whaling industry, especially to Greenland, Parliament imposed comparatively high duties on oil and whale-fins caught by foreigners, respectively £9 and £18 a ton. If imported and caught in colonial vessels, these respective duties were 6*s*. and 50*s*.; if caught in colonial vessels, but imported in English vessels, 3*s*. and 25*s*.; if caught and imported in English vessels, no duty had to be paid. 25 Car. II, c. 7. For the working of this law in 1729, see B. T. Newfoundland 10, O 46. This is one of the very few cases of discrimination against colonial shipping. Similar cases, but of more serious discrimination against British shipping, were not infrequent in colonial legislation.

favor of the colonial product was to drive Dutch whale-fins completely from the British market.[1] The attitude of the British government in making this change is clearly expressed in a pamphlet which was certainly written under the guidance of George Grenville, if it was not, as some suppose it to have been, the work of his pen. This writer says that these duties were removed with the full knowledge that the result would be the ruin of the Greenland industry, and he adds: "Tho' we resign a valuable Branch of Trade in their (the colonies') Favour . . . yet the Preference is given upon truly national Considerations, when the (British) Inhabitants of *America* and of *Europe* are looked upon as one People." [2]

In addition to these regulations, the list of enumerated commodities was considerably enlarged in 1764.[3] Thus coffee, pimento, and cocoanuts, which were being produced in the newly acquired West Indian islands, were added to the list. Of these the most important was coffee, which was

[1] An account of the quantity of whale-fins imported into England:

	FROM NORTH AMERICA	FROM HOLLAND
1759	7 cwt.	1562 cwt.
1760	18	1696
1761	27	2500
1762	335	804
1763	1546	922
1764	1550	73
1765	?	1

Treas. Acc. Rev. Misc. (England), Bundle 80. According to the memorial of the committee of American merchants, July 22, 1783, colonial whale-fins paid only 47*s.* 6*d.* a ton, while foreign whale-fins paid £96–14*s.* Am. and W.I. 448.

[2] The Regulations Lately Made (London, 1765), pp. 49, 50.

[3] 4 Geo. III, c. 15 § xxvii.

extensively grown in Grenada.[1] British colonial coffee had for some time been given preferential treatment in the markets of the mother country,[2] but this policy had not succeeded in stimulating its production. In 1765, the year after its enumeration, this preferential treatment of coffee was further accentuated by means of still greater differential duties.[3] Such treatment, it was held, justified the restraints imposed on the exportation of any colonial product by the enumeration policy. For not only did it result in a loss to the British revenue that the taxpayer in the mother country had to make good in some other way, but in addition it increased the price that the colonial planter received for his product. At this time also hides and skins were put in the enumerated list. Large quantities of deerskins were exported from the colonies, especially from South Carolina.[4] These skins, though hitherto not enumerated, were yet sent to England, whence in greater part they were reshipped to other countries, especially to Germany.[5] Consequently, their enumeration was of slight economic importance. Of the products of the continental colonies, besides hides, those enumerated in 1764 were whale-fins, raw silk, potashes and pearlashes, all prod-

[1] In 1765 it was said that this island produced 10,000 hogsheads of sugar and 3,500,000 lbs. of coffee. The Regulations Lately Made, p. 37.

[2] 5 Geo. II, c. 24; 25 Geo. II, c. 35; 32 Geo. II, c. 23 § v.

[3] 5 Geo. III, c. 45 § xi.

[4] B. T. So. Ca. 15 I 46, 60; 16 K 31, 37; Am. and W.I. 21 no. 105; B. T. Plant. Gen. 19 R 74.

[5] A vessel could not with safety be loaded with so heavy a commodity as rice. Consequently, in order to be able to fill their vessels, ship-owners were willing to take indigo and deerskins to England at low rates. William Knox, Extra Official State Papers (London, 1789), II, appendix, p. 40.

ucts receiving encouragement at the expense of the mother country. The treatment of whale-fins has already been discussed. On the experimental production of silk and potash in the colonies, Great Britain was spending considerable sums, and naturally took measures to prevent foreign nations from being the beneficiaries of these attempts.

In 1764, also, colonial iron and lumber were enumerated, but by a special provision their direct exportation from the colonies to any place in America, Africa, or Asia was allowed.[1] The addition of these products to the enumerated list was by far the most important change made therein at this time, and was quickly shown to have been ill-advised. Colonial lumber had for a long time enjoyed preferential treatment in the British market,[2] and in 1722 all the duties thereon were removed, while those on foreign lumber were retained.[3] It was only in consequence of this system that colonial lumber could at all compete in Great Britain with that from the Baltic. The provision of 1764 regarding colonial lumber immediately called forth some well-directed criticisms. A British consular official [4] pointed out that Portugal had been accustomed to import large quantities of colonial staves for pipes, hogsheads, and barrels, but that in consequence of the act of 1764, these were sent to the Azores and to Madeira,

[1] 4 Geo. III, c. 15 § xxviii.

[2] 2 William and Mary, sess. 2, c. 4.

[3] 8 Geo. I, c. 12 § ii; 16 Geo. II, c. 26; 24 Geo. II, c. 57; 31 Geo. II, c. 35. *Cf.* Charles Carkesse, The Act of Tonnage and Poundage (London, 1726), pp. vi, viii.

[4] Fr. Ibbetson, Deputy Consul General at Lisbon to the Board of Trade, 1765. B. T. Com. Series II, 579.

which were considered parts of Africa. Thence they were sent in foreign bottoms to Portugal, and thus the result of the new regulation was to discourage British shipping, and also to benefit those islands which had already acquired great wealth by the monopoly of the American wine trade. Similarly, some Cork merchants complained that the enumeration of lumber would be highly prejudicial to Ireland, as the casks in which they packed their provisions had, as a rule, been made out of staves imported directly from America.[1] As a result of these criticisms, Parliament took immediate action, and in 1765 allowed colonial lumber to be shipped directly to Ireland and to any part of Europe south of Cape Finisterre.[2] In addition, Parliament at the same time granted bounties[3] on lumber imported from the North American colonies into Great Britain, which resulted in a considerable trade,[4] and in the payment of not insignificant sums by the British treasury.[5]

Colonial iron also enjoyed preferential treatment in the British market. Its enumeration in 1764 aroused some

[1] B. T. Com. Series I, 49 Ii 114.

[2] 5 Geo. III, c. 45.

[3] *Ibid.*

[4] B. T. Com. Series II, 626 Qq 54.

[5] Account of bounties paid on colonial timber, etc., from Christmas, 1765, to Christmas, 1771:

1766	£1922
1767	6556
1768	6386
1769	6557
1770	5525
1771	4513

Ibid. Qq 55.

legitimate opposition.[1] Some Cork merchants pointed out that this regulation would hurt the Irish linen industry which, in part, relied on colonial flaxseed, because the seed had to be kept absolutely dry, and consequently could be shipped with security only on top of iron and lumber.[2] In 1765 Parliament took this into consideration, and permitted the colonies to export their iron directly to Ireland.[3] At the same time, the production of bar iron in the colonies was further encouraged.[4]

During the war, the temporary possession by Great Britain of a number of the French West Indies had led to the exportation of large quantities of rice from South Carolina to those islands.[5] As rice was an enumerated commodity, this trade became illegal in 1763, on the return of Martinique and Guadeloupe to France. Georgia and South Carolina, the colonies chiefly interested, were naturally loath to lose these markets. Accordingly they petitioned Parliament for permission to export rice to the foreign colonies.[6] The northern

[1] John Dickinson said that this restriction was "thought particularly severe," and that mixed cargoes of iron, lumber and provisions had yielded satisfactory results in the Portuguese and other markets. The Late Regulations respecting the British Colonies Considered, 1765, in Dickinson, Writings (ed. P. L. Ford) I, p. 226.

[2] B. T. Com. Series I, 49 Ii 114. Stephen Hopkins, The Rights of the Colonies Examined (Providence, 1765), p. 14, also called attention to the bad effect that the enumeration of lumber would have on the Irish linen industry, as cargoes were usually composed of lumber and flaxseed.

[3] 5 Geo. III, c. 45 § xxii.

[4] *Ibid.* § xxiii.

[5] B. T. Plant. Gen. 19 R 47; The Regulations Lately Made (London, 1765), p. 53.

[6] Commons Journal 29, pp. 606, 982.

British continental colonies opposed such a measure, as it would enable rice to compete with their food-stuffs in the French and Spanish colonial markets.[1] In 1764, however, Parliament allowed rice to be exported directly from Georgia and South Carolina to any part of America south of those colonies,[2] and in the following year extended this permission to the North Carolina product as well.[3] At the same time, a new regulation was adopted which removed one of the chief disadvantages involved in the enumeration of rice, and greatly facilitated its reëxportation from Great Britain to foreign markets.[4]

Reviewing these purely commercial regulations of the years 1764 and 1765, it is apparent that their aim was to encourage and not to restrict colonial industry. The efforts of the government to secure the expanding North American market for British manufacturers,[5] and to promote the devel-

[1] B. T. Plant. Gen. 19 R 47.

[2] 4 Geo. III, c. 27.

[3] 5 Geo. III, c. 45, § xix. Rice thus exported from the colonies had to pay one-half of the old subsidy of 1660, *i.e.* about 7*d.* a cwt. *Cf.* Carkesse, *op. cit.*, p. lxxx. But the duties thus paid were to be devoted to defraying the cost of defending the colonies. 5 Geo. III, c. 45, § xx.

[4] Rice could be shipped directly to European ports south of Cape Finisterre, but if destined ultimately for the Dutch or German markets, it had to be shipped *via* Great Britain. In 1765 it was provided that, as rice was frequently brought to British ports only in order to be immediately exported, and whereas in such instances the necessity of paying the full British duties was burdensome, therefore in future, on the declaration of an intention to reëxport immediately the entire cargo in the same vessel, only one-half of the old subsidy had to be paid. 4 Geo. III, c. 45, § xxi.

[5] Thus in 1765 the importation of foreign silk stockings, gloves, and mitts into Great Britain or its dominions was prohibited. 5 Geo. III, c. 48.

opment of the British West Indies at the expense of French commerce can be described more conveniently in connection with the reforms in the administration of the laws of trade and with the attempts to create a colonial revenue in order to defray a part of the cost of defending the colonies.

CHAPTER XI

REFORMS IN THE ADMINISTRATION OF THE LAWS OF TRADE, 1763–1765

THE illegal trade of the colonies with the enemy during the war gave a vital interest to the entire question of contraband trade, and directed the attention of the British government to the system as a whole. The experiences during the war formed to a great extent the basis for those reforms in the administrative machinery that were carried into effect after the peace of 1763.

The navy's success in partially breaking up the intercourse with the enemy led naturally to a proposal for its use in checking smuggling after the war. Contraband trade was a chronic evil in Great Britain and in the Empire as a whole, and was a natural phenomenon in that age of poor communications, and hence necessarily of lax administrative control. In the colonies it included not only violations of the imperial laws of trade, but also of the provincial revenue laws.[1] That section of the Navigation Act of 1660 which confined all trade within the Empire to British and colonial shipping gave to officers of the royal navy authority to seize vessels that violated this regulation.[2] As, except sporadically,[3] there

[1] *Cf.*, *e.g.*, Sharpe Correspondence III, p. 99.

[2] 12 Ch. II, c. 18, § i.

[3] For some apparent violations, see B. T. Com. Series II, 579, no. 17.

were virtually no such violations, and as only custom-house officials were authorized to seize vessels offending against the numerous other provisions of the acts of trade,[1] the activity of the navy in enforcing the colonial system had been insignificant.[2]

At various times, however, special vessels had been employed in the colonies to stop smuggling; and during a long course of years, the governors had regularly and persistently urged that this would be the most effective way to uproot all illegal trade. Accordingly, in 1763, profiting by the experience gained during the recently concluded war, Parliament passed an act authorizing the employment of the navy in preventing contraband trade on the coasts of Great Britain and Ireland, and in the colonies as well.[3] At the same time, the authority over vessels hovering on the coasts, which years before this had been granted to British custom-house officials,[4] was extended to those in Ireland and in the colonies.[5] Ships of the navy were thereupon immediately employed for these purposes in the colonies, where this expedient was decidedly unpopular.[6]

The minister responsible for this measure was George Grenville, who at the time of its introduction was First Lord

[1] 13 and 14 Ch. II, c. 11, § xv.

[2] Under Charles I, however, the navy had been regularly used to prevent the colonies from sending their produce to foreign countries.

[3] 3 Geo. III, c. 22, § iv. For the use of such vessels in Great Britain, see "The State of the Nation" (London, 1765), pp. 16–17.

[4] 5 Geo. I, c. 11.

[5] 3 Geo. III, c. 22, § viii.

[6] B. T. Mass. 78 Ll 67, 73.

of the Admiralty, and at the time of its passage, head of the Ministry in which he occupied the positions of First Lord of the Treasury and Chancellor of the Exchequer.[1] Grenville's chief interest centred on internal policy, and the motto of his administration was economy and reform. The war had left the British exchequer in a depleted condition, and this fact led to an investigation of all the possible ways of increasing the revenue.[2]

The two statutes affecting the colonies, from which an increased revenue might possibly be secured, were first, that of 1673 imposing certain moderate duties on inter-colonial trade; and secondly, the Molasses Act of 1733. The latter law had been to a great extent ignored, but during the war an attempt had been made to enforce it with a view to checking the trade with the French. These efforts had aroused considerable opposition in the colonies, and had been considerably relaxed on the approach of peace and its final conclusion.[3] The revenue derived from both of these statutes had been insignificant, amounting to only about one quarter of the cost of collection.[4]

[1] Commons Journal 29, pp. 620, 630; Cal. Home Office Papers, 1760–1765, p. 236.

[2] *Cf.* Grenville Papers II, pp. 113, 114.

[3] This can be seen in the revenue statistics already given. On Sept. 17, 1763, Hutchinson wrote to Richard Jackson: "Such indulgence has been shown of late to that branch of illicit trade that nobody has considered it as such; vessels arriving and making their entries for some small acknowledgements as openly as from our own Islands without paying the duties." Quincy, *op. cit.* p. 430.

[4] The average yearly revenue from these two statutes for thirty years was: in the continental colonies, £700 to £800; in the West Indies, £1100 to £1200. The establishment of the custom-house officials in all the colonies amounted to

The Molasses Act was diametrically opposed to the most fundamental interests of the northern continental colonies, and consequently could not easily be enforced. But in addition, the British customs service in the colonies was in part both inefficient and venal. The trade with the enemy had been in some degree carried on with the corrupt connivance of these officials. By law they had extensive discretionary powers, of which the chief was authority to accept in full payment amounts less than the lawful duties.[1] Thus, instead of exacting the full duties under the law of 1733, the officers of the customs frequently allowed the importation of foreign West Indian products on the payment of small sums of money which, it appears in some instances, they retained for their own uses.[2] In 1763, in consequence of this abuse, such compositions for duties were absolutely forbidden.[3] In addition, in some instances, the actual appointees to the positions in the customs service remained in England, and delegated their functions to deputies. The Board of Trade had in vain striven against this vicious system. As the salaries of the customs officers were in themselves small, and as they were still further reduced by this practice, some of them yielded to the temptation of aug-

£7600 yearly. The Regulations Lately Made (London, 1765), p. 57; Grenville Papers II, pp. 113, 114. For details regarding the officers of the customs in the colonies, see John Chamberlayne, Magnæ Britanniæ Notitia (London, 1755), part II, pp. 96–98.

[1] 13 and 14 Ch. II, c. 11, §§ xvii, xviii.

[2] N.J. Col. Doc. ix, pp. 402–404. *Cf.* Quincy, *op. cit.*, p. 430.

[3] Order of the Commissioners of the Customs, Nov. 15, 1763, printed in Hugh Gaine's "New-York Mercury," no. 649 for April 2, 1764.

menting their income by corrupt means.[1] Thus a number of posts in the service had become sinecures. The Commissioners of the Customs reported that this was one reason for the small revenue arising in the colonies. To Grenville, as the embodiment of administrative efficiency, such a system was particularly obnoxious. Shortly after the formation of his ministry, he ordered all colonial customs officials residing in England to proceed immediately to their posts in the colonies.[2]

In addition to these steps, on July 9, 1763, special instruc-

[1] On Sept. 17, 1763, Hutchinson wrote to Richard Jackson: "The real cause of the illicit trade in this province has been the indulgence of the officers of the customs, and we are told that the cause of their indulgence has been that they are quartered upon for more than their legal fees, and that without bribery and corruption they must starve." Quincy, *op. cit.* p. 430. Similarly, in 1764, James Otis wrote: "With regard to a few Dutch imports that have made such a noise, the truth is, very little has been or could be run, before the apparatus of guardships; for the officers of some ports did their duty, while others may have made a monopoly of smuggling, for a few of their friends, who probably paid them large contributions; for it has been observed, that a very small office in the customs in America has raised a man a fortune sooner than a Government. The truth is, the acts of trade have been too often evaded; but by whom? Not by the American merchants in general, but by some former custom-house officers, their friends and partizans." The Rights of the British Colonists Asserted and Proved (Boston, 1764), p. 58. In estimating the value of this statement, the controversial character of the pamphlet should be taken into account. Similarly, in 1764, an anonymous pamphleteer said that the Molasses Act had demoralized the custom-house officials, who "made a very lucrative jobb of shutting their eyes, or at least of opening them no farther than their own private interest required." An Essay on the Trade of the Northern Colonies (London, 1764), p. 20. See also Howard, A Letter from a Gentleman at Halifax, Newport, 1765.

[2] Grenville to Horace Walpole, Sept. 8, 1763. Grenville Papers II, pp. 113, 114. *Cf.* also Correspondence of Colonial Governors of Rhode Island, II, p. 355.

tions were sent to the colonial governors to take all possible measures to prevent illegal trade, especially the fraudulent and clandestine importation of foreign products and manufactures into the colonies.[1] In the meanwhile, the Treasury Department, over which Grenville especially presided, was carefully investigating the subject as a whole, and on October 4, 1763, reported thereon. This report pointed out that the income derived from the customs in America was very small and had not increased with the growth of commerce; and that, "thro' Neglect Connivance and Fraud," the revenue was impaired, and in addition the commerce of the colonies diverted from its natural course, in not being confined to the metropolis. The Lords of the Treasury remarked that this was a question of great importance, especially because the military establishments in the colonies necessitated a large revenue, and because the increased territory rendered the regulation of colonial trade a matter of immediate necessity. Furthermore they added that they had endeavored to remove the causes of "the Deficiency of this Revenue and the Contraband Trade with other European Nations," and had, with this object in view, ordered all the officials under them to be fully instructed in their duties, to repair to their respective stations and to execute the law. In addition, as contraband trade had "hitherto been carried on with too much Impunity," they recommended that strict instruc-

[1] These instructions were sent by the Secretary of State, Egremont. Sharpe Correspondence III, pp. 102, 103. See also Wentworth to Egremont, Oct. 20, 1763. Am. and W.I. 161. Egremont laid chief stress on the loss in revenue due to the evasion of the duties.

tions to enforce the laws be sent to the governors.[1] This report was immediately approved, and a short time thereafter, the Board of Trade sent the desired instructions to the governors.[2]

It will be noticed that this report emanated from the Treasury Department, and not from the Board of Trade, which was the body especially intrusted with the management of colonial affairs. This fact is significant. It indicates that the chief object in view was to improve the revenue, and in this respect, it sounds a new note, but one not altogether foreign to the old colonial system. It marks a reversion to the policy of the Stuarts, in whose regulations of colonial trade can be traced a fixed intention to improve the British customs revenue. During the eighteenth century this fiscal motive had, however, been distinctly subordinated to the broader economic one. A rigid execution of the Molasses Act might materially increase the revenue, and consequently it was on this law that the colonial customs officials to a great extent concentrated their attention.[3] Furthermore, as small duties were paid on foreign goods shipped from Great Britain to the colonies, a strict enforcement of the laws

[1] B. T. Plant. Gen. 18 Q 74; Am. and W.I. 387, folio 76. See also the report of the Commissioners of the Customs to the Lords of the Treasury, Sept. 16, 1763. Brit. Mus. Addit. MSS. 8133, C folio 85.

[2] B. T. Journals 71, p. 241; B. T. Plant. Gen. 45, pp. 306–309; Col. Rec. of Rhode Island VI, p. 375. The commander-in-chief, Amherst, was also instructed to give his support to the enforcement of the laws. Halifax to Amherst, Oct. 11, 1763. Am. and W.I. 77.

[3] See, *e.g.*, advertisement in the "Pennsylvania Gazette," no. 1836, March 1, 1764, dated at the custom house, Salem, N.J., Dec. 26, 1763, enjoining obedience to the Molasses Act. B. T. N.J. 9 K 42.

would also in this respect somewhat increase the British revenue. Besides, this policy would give the mother country a firmer hold on the North American market, and would thus add to her prosperity and concomitantly to the productivity of the British fiscal system.

A more rigid execution of the law and a reform in the customs service would not, however, do away with all those administrative defects that had been exposed by the trade with the enemy. But Grenville was painstaking and methodical and, prior to legislating, wished to hear further from the colonial governors. Though they had continually sent in reports as to the nature and extent of contraband trade, little of an exact nature was known about it. The instructions of 1763 brought forth detailed replies from the colonies,[1] which enabled the government to legislate during the parliamentary session of 1764.

For the purpose of considering the extent of illegal trade, the American colonies may be roughly divided into three groups, those in the West Indies, the plantation colonies on the continent, and the Northern provinces. In the important older colonies of the first group, especially in Barbados and

[1] A convenient list of these reports may be found in Cal. Home Office Papers, 1760–1765, p. 655. *Cf.* also nos. 1555, 1603. The predominance of the financial note in the regulations of 1764 and 1765 is indicated by the fact that the Secretary of State sent these reports to the Treasury office, and not to the Board of Trade. On July 9, 1763, the Earl of Egremont wrote to the colonial governors about illegal trade, and on Aug. 11, 1764, the Earl of Halifax did likewise. Both of these despatches elicited detailed replies, which it is advisable to consider together. See Wentworth's despatches of Oct. 20, 1763, and Nov. 18, 1764, in Am. and W.I. 161.

Jamaica,[1] there was comparatively little or no violation of the law. Thus the Governor of Barbados was able to write to the secretary of state: "I have the pleasure to inform you that I apprehend very little Illicit Trade is attempted in this Colony." [2] On the other hand, in the comparatively unimportant newly acquired colonies, and in the Virgin Islands where the government was not fully organized, there was considerable contraband trade. Almost the entire produce of Dominica and St. Vincent, whose inhabitants were in the main French, was carried to St. Lucia, a French island.[3] Similarly, the former French colony Grenada sought to retain its accustomed trade relations, and shipped a considerable quantity of cocoa and coffee to the French West Indies, importing thence in turn the manufactures of France.[4] These unsatisfactory conditions were, to a great extent, a direct result of the dislocation produced by the transfer of these islands from the French to the British flag, — from one commercial empire to a similarly organized, but different one.

In the Southern colonies on the continent, the situation was different and far more satisfactory. Dobbs reported that illicit trade was scarcely known in North Carolina, and that

[1] Lyttelton's Answers to Queries for 1763: B. T. Jam. 37 Cc 19; Lyttelton to Halifax, Jan. 12, 1764: Col. Cor. Jam. III.

[2] Charles Pinfold to Halifax, Nov. 17, 1764. Col. Corr. Barbados I.

[3] This produce consisted of coffee, cocoa, and tobacco, all enumerated commodities. This trade was stopped in 1765.

[4] Lords of the Admiralty to Halifax, July 7, 1765, transmitting extracts from the despatches of Rear-Admiral Tyrrel. Cal. Home Office Papers, 1760–1765, p. 573, no. 1825.

during the nine years of his tenure of office, only one seizure had been made, and that even in this instance no fraud had been intended.[1] Likewise, in Maryland, there was little or no violation of the law, except that a small quantity of tobacco was exported to the neighboring provinces, without paying the duties that the Crown had granted for the support of William and Mary College in Virginia.[2] In the latter province, also, there was virtually no illegal trade. In 1764, Fauquier wrote to Halifax that he believed Virginia stood "as clear of illicit practices in Trade as any country that trades at all," so much so that the men-of-war did not find it worth their while to watch at all. As in Maryland, some tobacco was sent to the other British colonies without paying the duties which in part supported the local college, and in addition, some small quantities of fruit and wine were imported directly from Portugal.[3] In South Carolina, according to William Bull, there had been "few Suspicions, & fewer Instances of Persons" having broken the laws of trade. Bull also added that he had never heard of any vessel coming to the province contrary to the Act of Navigation, and that

[1] Arthur Dobbs to Halifax, Jan. 14, 1764. Am. and W.I. 214. *Cf.* B. T. No. Ca., 14 E 53, 76.

[2] Horatio Sharpe to Egremont, Oct. 4, 1763; Same to Halifax, Oct. 20, 1764. Am. and W.I. 197.

[3] Fauquier to Halifax, Nov. 20, 1764. Am. and W.I. 205. "The Chief Fraud I have been apprized of has been the shipping off Tobacco to his Majesty's other Colonies without paying the Duty appropriated to the Support of William and Mary College; but a late Seizure of some New England Vessels, has I believe pretty well put a Stop to that practice." In addition, Fauquier wrote, that the ships coming from Lisbon brought some chests of fruit, which were generally given as presents to the shippers of tobacco, and also sometimes

while some illicit trade might be carried on, it was "in a very inconsiderable degree." [1]

The conditions prevailing in the Northern colonies were more complicated, and require a more exhaustive analysis. New Hampshire, with its small coast-line and single port, was apparently not implicated in contraband trade. In 1765, Wentworth, who had been its governor for twenty-one years, wrote to the secretary of state: "I have made it my first care to Prevent the evils now Complained of, and which have given so much Trouble . . . I have both the Pleasure and Satisfaction to assert with truth, that not one Cargoe of Prohibited Goods has been Landed within the Limits of My Government since my Arrival in it." [2]

From the neighboring colony of Massachusetts, Governor Francis Bernard reported on October 25, 1763, that he believed the laws of trade to be "no where better supported than they are in this province;" and that since the failure

some liquor or wine, but he added: "This is rather a small Venture of the Captain, and by no means a general Cargo of the Ship."

[1] Bull to Halifax, Nov. 28, 1764. Am. and W.I. 223. On Nov. 23, 1763, Governor Thomas Boone also wrote to the secretary of state on the same subject, without giving any precise information, but saying that eleven years' acquaintance with nearly every province of America had convinced him of the necessity of the steps taken to prevent illegal trade. As far as South Carolina was concerned, he said that he had been very diligent in seeing that the laws of trade were enforced. *Ibid.*

[2] Wentworth to Egremont, Oct. 20, 1763. Am. and W.I. 161. The following year, Nov. 18, 1764, Wentworth wrote to Halifax that upon strict inquiry he finds that since 1741 only one vessel has been suspected of being engaged in contraband trade. This case concerned only 30 to 40 hhds. of foreign molasses, and nothing positive could be learned about it. *Ibid.* *Cf.* also Wentworth to the Board of Trade, March 4, 1764. B. T. New Hampshire 5 D 14.

in 1761 of the attack on the Vice-Admiralty Court and the custom-house officials, "the Merchants here in general have acted in such a manner as to intitle themselves to all proper favour." Bernard admitted, as did Fauquier of Virginia, that there had been an indulgence "time out of mind allowed" in a trifling but necessary matter, in that small quantities of fruit and wine were allowed to be imported directly from Lisbon. But this, he correctly pointed out, was in itself of but slight importance, and besides, did not run counter to the spirit of the old colonial system.[1] Bernard likewise added that he did not pretend that Massachusetts was entirely free from all breaches of the law, but that the offenders, if discovered, were severely punished.[2] This report did not discuss the "Molasses Act," which was extensively and even openly violated in Massachusetts, such evasions constituting unquestionably the bulk of the illegal trade of that province.[3]

[1] Am. and W.I. 167. *Cf.* also Bernard's answers to the Queries, Sept. 5, 1763. B. T. Mass. 78 Ll 67, 68.

[2] At this time a vessel with its cargo was condemned without any defence for loading rice without giving the necessary bond. In 1763, also, a ship, the *Freemason*, was condemned with its cargo for coming to Boston with wine from Bordeaux. As the wine had not been actually landed, there was some doubt as to the technical legality of this condemnation, and an appeal was taken to the High Court of Admiralty. Bernard to Halifax, Dec. 24, 1763: Am. and W.I. 167; B. T. Mass. 78 Ll 67; Quincy, *op. cit.* pp. 387–392.

[3] Bernard strongly opposed the policy of this act, and on Sept. 5, 1763, wrote to the Board of Trade, recommending that the important trade in molasses from the West Indies be not touched, either by executing the old law or by passing a new one. B. T. Mass. 78 Ll 67–68. In 1764 Bernard freely admitted that "if conniving at foreign sugar & molasses, & Portugal wines & fruit, is to be reckoned Corruption, there was never, I believe, an uncorrupt Custom House Officer in America till within twelve months." Quincy,

In Rhode Island the conditions were peculiar; the colony was virtually a petty independent republic, and opposed the custom-house officials as the representatives of an outside authority.[1] The colony, however, produced no enumerated commodities, and hence was necessarily free from any important violations of this phase of the colonial system; nor, on the other hand, does it appear that there was any extensive illegal importation of foreign manufactures.[2] The Molasses Act, however, was flagrantly and openly ignored. Of the fourteen thousand hogsheads of molasses imported into the colony, all but twenty-five

op. cit. pp. 423, 424. It should be noted that Bernard was suspected of adding to his income by countenancing these evasions.

[1] Halifax to Rhode Island, June 9, 1764. Am. and W.I. 197. See also Bernard to Halifax, Dec. 14, 1764. *Ibid.* In this despatch Bernard said that it was difficult even in a royal colony to guard the smaller ports, and that "it would be too much to require an elective governor to be earnest in discovering & prosecuting frauds of trade."

[2] This statement is to some extent based on "An Essay on the Trade of the Northern Colonies" (London, 1764), pp. 9, 10. A good outline of this pamphlet may be found in the "Monthly Review" (London, 1764), XXX, pp. 464–466. The title-page conveys the impression that it was a reprint from a Philadelphia edition. Hildeburn (Issues of the Press in Pennsylvania, II, p. 12) gives it among the Philadelphia imprints of 1764, but he does not state that he actually saw the pamphlet. M. C. Tyler (Literary History of the American Revolution, I, p. 56), saw only the London edition, but on the strength of its title-page, used this pamphlet as an expression of the sentiment of the Middle colonies. The essay appeared in a Rhode Island newspaper, "The Providence Gazette" for Jan. 14 and 21, 1764, and hence could not have been reprinted from a Philadelphia edition of that year. It is signed with the initial P., as was Stephen Hopkin's anonymous pamphlet, "The Rights of the Colonies Examined," Providence, 1765. It should also be noted that Hugh Gaine's "New-York Mercury," no. 641 for Feb. 6, 1764, in reprinting this essay, acknowledged its indebtedness to the "Providence Gazette."

hundred were foreign in origin, yet virtually no duties were collected thereon.[1]

Connecticut's foreign commerce was in itself small, and consequently this colony's participation in illegal trade could not be of serious importance. When pointing this out in 1763, Governor Fitch also wrote he had used his utmost endeavors to enforce the law, and that, possibly in consequence thereof, all violations had ceased.[2] The following year he likewise stated that the officials of the customs were very careful and diligent, and that no illicit trade was carried on.[3] The Sound was, however, a convenient place for smugglers,[4] and, despite Fitch's assertions, it appears that some foreign goods were smuggled into Massachusetts[5] and into New York[6] from Connecticut. New Jersey, like Connecticut, had but little foreign trade, and its waters also furnished a convenient means for smuggling into New York.[7] In 1764,

[1] Memorial of Rhode Island against the Molasses Act in B. T. Prop. 21 X 57; Col. Rec. of R.I. VI, pp. 378–383; "New-York Mercury," Nov. 12, 1764, no. 681.

[2] Fitch to Egremont, Sept. 14, 1763. Am. and W.I. 197.

[3] Fitch to Halifax, Nov. 13, 1764. *Ibid.* *Cf.* also B. T. Prop. 21 X 33, 1762.

[4] *Cf.* B. T. Prop. 13 S 1.

[5] In 1764 Bernard reported that some foreign goods, especially teas, had been smuggled into Boston, but as that port was particularly well watched, they could not have been imported there. Soon thereafter, he learned that two Dutch vessels had been able to get into two of the smaller ports of Connecticut, and he surmised that these goods came thence. Bernard to Halifax, Dec. 14, 1764. Am. and W.I. 167.

[6] Colden to Halifax, Oct. 9, 1764: Am. and W.I. 176. Colden to Board of Trade, Dec. 7, 1763: N.Y. Col. Doc. VII, p. 584. *Cf.* also B. T. N.Y. 34 Mm 13, 14.

[7] Colden to Halifax, Oct. 9, 1764: Am. and W.I. 176; N.Y. Col. Doc. VII, p. 584. *Cf.* B. T. N.J. 9 K 17.

however, Governor Franklin was able to assure the secretary of state that since his arrival in New Jersey, two years prior to this, he had had no information regarding any contraband trade, and that the officers of the customs had effectually stopped the greatest part, if not all, of such violations of the law in his government.[1]

Like Rhode Island, Pennsylvania was virtually an independent community, having but slight political connection with the mother country, and consequently little exact information about conditions in the colony was forwarded to England. It was generally believed that the traders in Philadelphia, New York, Rhode Island, and Massachusetts were the chief violators of the laws of trade, including therein the Molasses Act.[2] In 1763, the governor of the colony, James Hamilton, wrote rather ambiguously that he had always endeavored to stop contraband trade, but that he had not met with the success he should have liked.[3] His successor, John Penn, however, wrote in the following year that, whatever irregularities may theretofore have occurred in Pennsylvania, at that time no illegal trade seemed to be practised.[4]

In contrast to this meagre information from Pennsylvania, fairly complete evidence is available regarding New York.

[1] Franklin to Halifax, Nov. 8, 1764. Am. and W.I. 190.

[2] Wentworth to Egremont, Oct. 20, 1763. Am. and W.I. 161.

[3] James Hamilton to Egremont, Oct. 8, 1763. Am. and W.I. 197. Hamilton wrote that he approved of the use of the navy to stop illegal trade, and that he would do his utmost with the same end in view.

[4] John Penn to Halifax, Dec. 10, 1764. Am. and W.I. 197. He added that the stationary ships of war on the coast of America had been very effective, and that the officers of the navy and of the customs were vigilant in performing their duty.

Colden was the executive head of this colony, and forwarded to the government detailed reports,[1] which throw considerable light not alone on conditions prevailing in New York, but also on those in the other colonies. In the first place, Colden wrote to the Earl of Egremont: "Your Lordship cannot easily conceive how weak the hands of Government are in this province, & how much the Governor is disabled in securing the King's Right, & in putting the laws of trade in execution." This arose in part, as he pointed out, from the fact that the judges were closely allied to the leading families, and in all cases of importance were apt to decide against the Crown, and in favor of their relatives. As to the extent of such violations, Colden reported that "without doubt much illicit Trade is carried on in this place, and, tho' more of it has been detected and punished in this Port, than in any of the other Colonies, I am persuaded there is not less among them, in proportion to the Trade." He asserted also that New York customs officials were more careful than those of the neighboring colonies.[2]

The chief infraction of the colonial system described by Colden consisted of a direct trade from Holland to the colonies. This was carried on in two ways. British vessels bound from Holland for America touched at some port in the mother country, where they entered and paid duties

[1] Colden to Egremont, Sept. 14, 1763: Am. and W.I. 176; Same to Board of Trade, Dec. 7, 1763: N.Y. Col. Doc. VII, p. 584; Same to Halifax, Oct. 9, 1764: Am. and W.I. 176.

[2] The smuggling of foreign goods into New York from Connecticut and New Jersey, Colden wrote, had been stopped by the navy's "puting Hands on Board suspected vessells before they got into any Port."

on only a portion of their lading, and then, protected by the custom-house documents which they had received in Great Britain, landed their entire cargoes in the colonies. The other method was to sail from Holland with papers indicating the Dutch colonies as the point of destination, but with leave to stop at some British colony. This, Colden pointed out, "saves them from the officers in case the landing of the goods be not discovered." [1] The chief commodities thus illegally imported were tea and gunpowder.[2]

From this summary analysis of the governors' reports, it will be apparent that, while there were numerous infractions of the colonial system, its effectiveness as a whole was not seriously impaired. The Molasses Act, which was not an integral part of the system, was, however, largely ignored, so much so that in a number of instances the governors treated it as an obsolete law, and did not trouble themselves with giving any information about its evasion. Of the three fundamental principles of the system, two were apparently almost completely intact. Colonial trade was, if not wholly, at all events to an overwhelmingly preponderant extent, confined to British and colonial shipping, and the enumerated commodities were as a general rule shipped to Great Britain. Of the third fundamental principle, — that

[1] These methods had already been called to the attention of the British government by Hardy in 1757, and by DeLancey in 1758. B. T. Journals 65, Nov. 3, 1757; B. T. N.Y. 34 Mm 13, 14, 40, 42. Colden said that an act of Parliament would be necessary to cope with such practices.

[2] This trade was carried on from Hamburg as well as from Holland. In 1764 Colden reported that the navy had put an end to this trade. The following year he wrote to Halifax that "no illicite trade has been discovered of late." N.Y. Col. Doc. VII, p. 710.

of making the mother country the staple of the European and Asiatic goods consumed in the colonies, — the violations were more serious. It is impossible to estimate their extent in quantitative terms.[1] Fruits and wines were imported directly from Portugal, but this practice was commercially unimportant and, though violating the letter of the law, did not seriously affect the principle underlying it. Then, foreign European and Asiatic products were to a certain extent imported directly into the colonies, and in other instances they were imported through Great Britain without paying the British duties. The chief articles thus smuggled were tea[2] and gunpowder.

In this connection it should also be noted that in the main

[1] The author of The Regulations Lately Made (London, 1765), pp. 92, 93, correctly says that the extent of illegal trade, "as it is in its Nature private, cannot be certainly known," but he adds the vague generalization, "that it is carried to a dangerous Excess, is an indisputable Fact." He maintained that vessels continually traded from Hamburg, Holland, and ports in the German Ocean, and from the foreign colonies to those of Britain; and that "the Concurrence of all these several Modes of evading the Acts of Navigation, can alone account for the Demands of the Colonies upon their Mother Country, being vastly disproportioned to their Consumption." He sought further to strengthen this conclusion by pointing out that very small quantities of the finer grades of foreign linens, of wines, and of tea were exported from Great Britain to America. But these facts can be otherwise explained. Thus wines reëxported from Great Britain could not compete with Madeira and similar wines that could legally be imported directly into the colonies. This pamphleteer then hazards the estimate that foreign merchandise to the value of £700,000 was yearly smuggled into the colonies, an amount considerably in excess of the foreign goods imported from Great Britain. These statements are to a large extent pure guess-work, and are far less reliable evidence than are the official reports of the governors.

[2] In 1765 it was estimated that the yearly consumption of tea in the colonies was 1,500,000 lbs., while they imported from Great Britain only 150,000 lbs.

there was little inducement to violate the laws prohibiting the colonies from importing European and Asiatic goods from any place but Great Britain, as this regulation did not to a marked extent increase the cost of foreign goods. Thus in 1762, the Virginia Committee of Correspondence, after referring to the fact that most European goods reëxported from Great Britain to the colonies received a drawback of all the duties paid with the exception of $2\frac{1}{2}$ per cent, said: "This can be no temptation to any man in his Senses to run the risque of smuggling."[1] This regulation, however, did somewhat increase the price of such foreign goods in the colonies, and consequently they must have encountered some difficulty in competing with similar goods illegally imported. Hence the very fact that large and increasing quantities of foreign goods were reëxported from Great Britain to the colonies indicates in some measure that their illegal importation into the colonies was not in general extensively carried on.[2]

(The Regulations Lately Made, pp. 92, 93.) This statement is largely a haphazard one, and seems to be based on the fact that the statistics showed a much smaller *per capita* consumption of tea in the colonies than in Great Britain. During the ten years ending April, 1763, 1,674,000 lbs. of tea were exported from Great Britain to the colonies, while during the same period the mother country consumed 38,760,000 lbs., and Ireland 1,808,000 lbs. (The State of the Nation, London, 1765, p. 18.) It is, however, a well-established fact that the consumption of tea was not so wide-spread in the colonies as it was in England, and consequently, even allowing for the smuggling of tea into Great Britain, the disparity is not so remarkable. Hence it would appear that the estimate of an American consumption of 1,500,000 lbs. is far too large. *Cf.* also Pownall, *op. cit.* pp. 190–192.

[1] Va. Mag. XI, p. 142.

[2] Thus of the total exports from London to New York during the six years

These reports of the governors and the experience gained during the war enabled Parliament to legislate in 1764. Under the prevailing system, British West Indian products received preferential treatment in the mother country's market. During the war foreign sugars had been imported from the continental colonies as British sugars, thus evading the high differential duties and vitiating the preferential system. As the ensuing illegitimate profits were large, such frauds were also subsequently prevalent in some of the West Indian colonies.[1] Accordingly, in 1764, the preferential system was safeguarded by requiring adequate certificates and affidavits as to the origin of the commodities.[2]

It had been pointed out by one of the colonial governors that some violations arose from the fact that vessels engaged in the colonial coasting trade did not have to make entries at the custom-house.[3] Accordingly, Parliament ordered that no vessel could sail from one colony to another without clearing with the officers of the customs.[4] Then, on the strength of Colden's reports, and those of his predecessors

from Christmas, 1758, to Christmas, 1764, somewhat over one-fifth consisted of such foreign goods. Customs Records in Public Record Office, Ledgers Imports and Exports, vols. 59–64.

[1] Cal. Home Office Papers, 1760–1765, p. 573.

[2] 4 Geo. III, c. 15, § xx. In 1766 it was further provided that all foreign sugars imported into Great Britain from the continental colonies "shall be deemed and taken to be French sugars." 6 Geo. III, c. 52, § xxiii. The clause in the act of 1764 was suggested by the West India planters. Mauduit, Feb. 11, 1764, in Mass. Hist. Soc. Coll. Series I, vol. VI, p. 195.

[3] Thomas Boone, Nov. 23, 1763. Am. and W.I. 223.

[4] 4 Geo. III, c. 15, § xxix. Small open vessels, under twenty tons in burden, not laden with dutiable and prohibited goods were exempted by 5 Geo. III, c. 45, § xxv.

during the war, it was also provided in 1764 that in future no ship could clear from Great Britain for any colony unless the entire cargo had been laden and shipped there.[1] In addition, foreign vessels at anchor or hovering on the coasts of the colonies, and not departing when warned, were, unless in distress, declared forfeited.[2] Similarly, in order to prevent illegal trade with the French, all commercial intercourse with St. Pierre and Miquelon was forbidden.[3]

As a result of the fact that the colonial customs officials had been interfered with in the execution of their duties by damage suits, it was furthermore provided that in cases where the court, while releasing the seizure, still held that there had been a probable cause for making it, these officers should not be liable for damages. In such cases also the owner of the seized goods or vessel was not entitled to recover the costs of the suit.[4] In addition, the owner of the seizure, not the officer, had to prove his case,[5] and all persons claiming seized goods had to deposit security to cover the costs of the suit.[6] In order still further to protect these officers, Parliament, in 1765, forbade the colonies to reduce their fees.[7]

[1] 4 Geo. III, c. 15, § xxx. This naturally did not apply to Madeira wines, to Irish linens, etc., which would be imported directly into the colonies. § xxxi.

[2] *Ibid.* § xxxiii.

[3] *Ibid.* § xxxv.

[4] *Ibid.* § xlvi.

[5] *Ibid.* § xlv.

[6] *Ibid.* § xliv. Governor Thomas Boone of South Carolina suggested this, Nov. 23, 1763. Am. and W.I. 223. *Cf.* B. T. So. Ca. 20 M 103.

[7] 5 Geo. III, c. 45, § xxvii. The naval officers were entirely paid by fees, and the collectors in part by fees and also by salaries. These fees were deter-

In 1764, Parliament also made a change in the system of colonial vice-admiralty courts. The Navigation Act of 1660 had given jurisdiction to the admiralty courts in the case of one class of seizures,[1] and in 1671 this jurisdiction was further extended.[2] But in the latter half of the seventeenth century, while in the West Indies cases arising out of violations of the laws of trade were frequently tried in the admiralty courts, in the continental colonies they were tried in the ordinary civil courts acting with a jury. As these juries would rarely give a verdict for the Crown, even if the evidence was indisputable, it was found necessary, toward the end of the seventeenth century,[3] to give jurisdiction in all cases involving the acts of trade to vice-admiralty courts, which shortly thereafter were erected in all the colonies.[4] These courts rendered decisions without juries, and on this ground, as well as for the reason that they represented a foreign jurisdiction, they were in general disliked by the colonies. At all times throughout the eighteenth century there was a latent conflict between these courts and those of the colonies, and on several occasions it became acute. During the war, some of the vice-admiralty courts, influ-

mined by the local legislatures. Thus in 1748 Virginia passed a law settling the fees of these officials, but providing that only one-half of these fees was to be paid, if the vessel belonged wholly to the inhabitants of Virginia. Hening VI, 1748, Ch. 36, §§ vii, viii, ix.

[1] 12 Ch. II, c. 18, § i.

[2] 22 and 23 Ch. II, c. 26, §§ x, xi. *Cf.* Bollan's Memorial in B. T. Mass. 74 Hh 52, and B. T. Plant. Gen. 34, pp. 20, 83.

[3] 7 and 8 Wm. III, c. 22, § vii.

[4] Adm. Sec. Out-Letters 1047, pp. 3, 53, 54, 96, 98, 101, 103, 104, 144, 149, 150.

enced by colonial sentiment, had refused to condemn vessels engaged in illegal trade with the enemy. Likewise, since the statute of 1696 that had established this system, many acts had been passed by Parliament regulating colonial trade, some of which did not clearly and unquestionably give jurisdiction to the colonial vice-admiralty courts.[1] Hence difficulties arose, and it was deemed advisable to reform the system.[2] Consequently, in 1764, Parliament provided that all penalties arising from any violation of the acts of trade should be recovered in any colonial court of record, in any colonial court of admiralty, or in any court of vice-admiralty, which may or shall be appointed over all America, at the election of the informer or prosecutor.[3] In accordance with this act of Parliament, power was given to the Commissioners of the Admiralty to establish such a general court.[4] On May 28, 1764, they ordered the appointment of the Earl of Northumberland as Vice-Admiral of all America,[5] and on the following day that of William Spry as Judge of the Vice-Admiralty Court of all America, under the style of

[1] Memorial of Bollan. B. T. Mass. 74 Hh 52.

[2] In their report of Oct. 4, 1763, the Commissioners of the Treasury commented on the difficulty of getting seizures condemned, and recommended the establishment of a uniform system in the colonies. B. T. Plant. Gen. 18 Q 74.

[3] 4 Geo. III, c. 15, § xli. The Stamp Act of 1765 gave appellate jurisdiction to this general vice-admiralty court, but by its repeal in 1766, this right to hear appeals was also taken away from this court. 5 Geo. III, c. 12, § lviii; 6 Geo. III, c. 52. *Cf.* an interesting memorial on the colonial admiralty courts in Am. and W.I. 387, folios 68 *et seq.* See also Whately to Charles Yorke, Feb. 16, 1765, enclosing a memorial on the admiralty jurisdiction in the colonies. Brit. Mus. Addit. MSS. 39511 (Hardwicke Papers DLXIII).

[4] Adm. Sec. Original Patents (Vice-Admiralty and Subordinate Offices), 40.

[5] Adm. Sec. Out-Letters 1057. Admiralty to Sir Thomas Salusbury.

"Commissary Deputy and Surrogate," with powers concurrent with those of the existing colonial admiralty courts, but with no power to hear appeals from them.[1]

Reviewing these administrative reforms, it is apparent that their effect was to strengthen the hands of the imperial government. A strict enforcement of the laws of trade meant also a firmer hold on the North American market, and similarly, the execution of the Molasses Act meant a development of the British West Indies at the expense of the French colonies and hence of French commerce. These clearly defined objects were, however, subordinate to the fiscal motive. The strained condition of the British finances, and the increased expenditure necessitated by the vast territorial accessions to the Empire, emphasized the urgency of the financial problem. The question of colonial defence assumed greater importance, and it was to this question and to securing from the colonies some portion of the enlarged expenditure which it necessitated that the British government devoted its chief attention.

[1] Adm. Sec. Out-Letters 1057. Same to Same. His salary of £800 was to be paid out of the King's share of the seizures, or if this were insufficient, by the Treasurer of the Navy. For Spry's commission, see Brit. Mus. Addit. MSS. 35910 (Hardwicke Papers DLXII, folio 225).

CHAPTER XII

INDIAN POLICY AND COLONIAL DEFENCE, 1763–1765

THE removal of France from Canada did not diminish the necessity of an adequate system of colonial defence. In England it was recognized at the time, that the peace was only a truce in the prolonged struggle with France, and that it would be highly dangerous not to be prepared for a fresh war at some more or less remote future date.[1] The pride of France was wounded to the quick by the series of humiliating disasters, and it was unreasonable to expect that this nation, whose predominance but a few years before had seemed in the eyes of all to threaten the balance of European power, would feebly submit to a position of decided inferiority. Immediately after the conclusion of peace, France sought for a means of retrieving her fortunes, and in encouraging the separatistic tendencies of the North American colonies, endeavored to cripple her rival.[2] The prospect of renewed hostilities with France was thus always in the background; in the foreground of colonial defence was the Indian question, which had assumed alarming dimensions. By the terms of the Treaty of Paris, a fringe of land along the coast of America had been enlarged to half a continent, for the

[1] *Cf.* Soame Jenyns, *op. cit. passim;* Sharpe Correspondence III, p. 288.
[2] Henri Doniol, Histoire de la Participation de la France I, pp. 4, 5.

greater part unoccupied except by Indians, who were, in the main, hostile to the English. In addition, the entire fur trade had come into British hands, and this also necessitated the occupation of the numerous posts established by the French in the interior. Thus the military question was an important one, and similarly, also, the closely related problem of regulating the Indian trade demanded a comprehensive settlement.

Until the middle of the eighteenth century, the British government had left the management of Indian affairs to the separate colonies. From their very foundation, the commercial relations with the aborigines had been important. With the development of Canada, the bulk of this trade had, however, drifted into French hands, yet at all times it constituted a not insignificant feature of the economic life of the British colonies. The success of the French was due in great measure to the centralized form of their government, and similarly the failure of the English resulted from the fact that each colony sought to secure as great a share of the Indian trade as was possible, and thwarted the endeavors of its competitors. The result of this rivalry had been pernicious, not only in facilitating the success of the French in the fur trade, but also in alienating the Indians. This alienation was further increased by the general character of English colonization, which, by the effective occupation of the soil, drove the Indians from their accustomed hunting-grounds. As Pownall said, the English, "with an insatiable thirst after landed possessions," forced the Indians away from their

lands.[1] In contradistinction, the extensive nature of French colonization did not seriously interfere with the ordinary pursuits of the natives

The chief object of the British government in calling together the Albany Congress of 1754 had been to place Indian affairs under the joint management of the colonies. On the failure of this plan, the government was forced to undertake the matter itself, and appointed Sir William Johnson [2] and Edmund Atkin [3] as agents, respectively for the Northern and Southern Indians. These officials were especially intrusted with superintending the political relations with the native tribes. The commercial relations were still left to each separate colony, and the results thereof continued as unsatisfactory as they had been hitherto. Early in 1756 Dinwiddie pointed out the necessity of requiring a license from all traders, and of so regulating the trade that Indians should neither get too much rum nor be cheated in the price

[1] Memorial in Pownall to Pitt, Jan 15, 1758. Am. and W.I. 71. This was subsequently printed in Pownall, Administration of the Colonies (2d ed. London, 1765), appendix, pp. 12, 13. Pownall added: "The Indians unable to bear it any longer told Sir William Johnson that they believed soon they shou'd not be able to Hunt a Bear into a Hole in a tree but some Englishman wou'd claim a right to the property of it as being his Tree." This story, though *ben trovato*, is not accurate. At the conference in 1753 between Johnson and the Iroquois, one of the Indians made the above statement, but he referred to the French as well, not alone to the English. N.Y. Col. Doc. VI, p. 813.

[2] Board of Trade to Henry Fox, Feb. 17, 1756. Am. and W.I. 605. Already, in 1755, Johnson had been appointed by Braddock; in 1756 he and Atkin received commissions from the Crown.

[3] Board of Trade to Henry Fox, May 13, 1756: Am. and W.I. 605; B. T. Plant. Gen. 15 O 138; B. T. Journals 64, June 24, 1756.

that they obtained for their furs.[1] At the same time, Shirley also sent to the Board of Trade a sketch of such a plan, which was based on the Massachusetts scheme of regulating the trade.[2] During the war it was impossible to inaugurate a general system, while at the same time the necessity thereof was strongly emphasized by the alienation of the Indians, who in general not only sided with the French when the issue was in doubt, but who, even after the fall of Montreal, were ever on the eve of an organized revolt against British authority.

This dissatisfaction of the Indians was due to many causes: to French incitement; to the intrusion of English settlers on their lands; to the abandonment by the English of the French policy of giving to the natives presents of guns and clothing; and, above all, to the low moral character of the English traders.[3] In 1761 the secretary of state, Egremont, wrote to Amherst, condemning in strong terms the shameful conduct of the colonial traders in taking advantage of the Indians, and pointing out that the French, by pursuing a different course, had deservedly succeeded in gaining the confidence of the native tribes.[4]

[1] B. T. Va. 25 W 208.

[2] This was sent at the request of the Board of Trade. B. T. Mass. 74 Hh 68.

[3] In 1756 Dinwiddie attributed the Indians' distrust of the English to the traders, "who are the most abandoned Wretches in the World." B. T. Va. 25 W 208. See also Sir William Johnson's despatch of June 28, 1766, in Am. and W.I. 388; and his despatch of July 1, 1763 to the Board of Trade in N.Y. Col. Doc. VII, pp. 525–526.

[4] Dec. 12, 1761. Am. and W.I. 77. On April 28, 1761, Francis Bernard wrote to the Board of Trade that the Indians "are suffered to run in debt beyond their abilities & then are allowed to sell their children to pay their debts;

A few months later the Board of Trade wrote to the governor of South Carolina, approving of his scheme to induce the neighboring colonies to unite on a general plan for regulating the Indian trade, and expressing the hope that this would in some degree remove the mischiefs and inconveniences that had resulted from the passage by the different provinces of partial acts, "not only differing from, but frequently obstructing and counteracting each other." In the Board's opinion this was the chief cause of the jealousy and discontent among the Indians, which had led to such disastrous results. At the same time the Board added: "We are inclined to think, that our Interest with respect to the Indians never can be settled with stability, but by the interposition of the Parliament of Great Britain, in making some general Regulations for the management of Indian Affairs, upon some general Plan, under the sole direction of the Crown & its Officers." [1]

This conclusion was reënforced the following year, when the discontent of the natives led to an Indian war of unparalleled magnitude, under the able leadership of Pontiac. On October 7, 1763, a proclamation was issued prohibiting the settlement of any lands west of the sources of the rivers flowing into the Atlantic, and requiring all Indian traders to

They are suffered to harass one another at Law for trivial disputes, which sometimes end in the ruin of both parties; when they are condemned in criminal prosecutions, they are subjected to Fines instead of corporal punishment, so that where the Criminal only ought to be corrected, his family is ruined; In civil actions, they are charged with exorbitant costs, when it is known they have nothing to pay with." B. T. Mass. 78 Ll 14.

[1] Board to Thomas Boone, June 3, 1762. B. T. So. Ca. 29, p. 171.

take out licenses from the colonial governors.[1] This was merely a provisional arrangement[2] pending the formulation by the Board of Trade of a comprehensive scheme for regulating the trade. The essential thing was to protect the Indians from the traders, as otherwise friendly relations could not be established.[3] Accordingly, all trade was to be confined to the various posts, where it could be supervised by the military commanders. All traders were to take out licenses and to give security to obey such regulations "as shall be thought necessary for the effectual Prevention of those fraudulent Practises which have produced so many bad Consequences, and which it appears impossible to prevent by any other Means." [4]

Before inaugurating a definite scheme, the Board of Trade wrote to the Indian agents asking for their well-matured opinions.[5] In reply to this request, the agent for the Northern Indians, Sir William Johnson, prepared a detailed plan.[6] He emphasized the necessity of employing a much

[1] Hening VII, pp. 663–669; Annual Register 1763, pp. 208 *et seq.*; Pa. Arch., 4th Series III, pp. 240–248. See also Cal. Home Office Papers, 1760–1765, p. 303, no. 993.

[2] N.Y. Col. Doc. VIII, p. 21. *Cf.* Washington, Writings (ed. W. C. Ford) II, pp. 220, 221.

[3] On Sept. 29, 1763, the Board of Trade wrote to Sir William Johnson: "We are convinced that nothing but the speedy establishment of some well digested and general plan for the regulation of our Commercial and political concerns with them (the Indians) can effectually reconcile their esteem and affections." N.Y. Col. Doc. VII, p. 567.

[4] Halifax to Amherst, Oct. 19, 1763. Am. and W.I. 77.

[5] Board of Trade to John Stuart, Aug. 5, 1763, in B. T. So. Ca. 29, pp. 195–197; Same to Johnson in N.Y. Col. Doc. VII, p. 535.

[6] N.Y. Col. Doc. VII, pp. 572 *et seq.*; 579 *et seq.*

larger force of men in the service, advised the annual giving of presents to the Indians, and in addition recommended that the trade be confined to a number of posts "agreeable to certain regulations for the prices of goods and Furrs." In 1764, the Board of Trade prepared a tentative plan, according to which Indian affairs were to be divided into two districts under the charge of officers appointed by the Crown. These officers were to have power "to sett aside all local interfering of particular Provinces, which has been one great cause of the distracted state of Indian Affairs in general." As Johnson had suggested, the trade was to be confined to certain posts, and those engaged in it were to take out licenses.[1]

It is obvious that such a comprehensive system would entail considerable expense. On this occasion, as on many others in the history of the British Empire, the financial question was the decisive factor. The Ministry had no intention of saddling the already overburdened taxpayer in the mother country with this additional outlay; the colonies not only objected to the extension of imperial authority that this scheme necessitated,[2] but in addition they would not voluntarily contribute the necessary funds, nor would they submit to parliamentary taxation; finally, it was difficult to devise a satisfactory system of duties on the trade, by means of which the cost of its management could be defrayed.[3]

[1] N.Y. Col. Doc. VII, pp. 634-641; Pa. Arch., Hazard Series IV, pp. 182-192.

[2] N.Y. Col. Doc. VIII, p. 655.

[3] In 1764 Colden wrote that "the most effectual method to raise the duties on the Indian Trade, for defraying the expence of the regulation of that Trade" would be by collecting at the trading posts duties in kind on the fur sold there.

It was mainly on account of the difficulty of the financial question that the Board of Trade did not in 1764 present its plan to Parliament. This difficulty was still further increased in the following year by the troubles over the Stamp Act, and by the refusal of the colonies to submit to parliamentary taxation. To make the trade self-supporting, and at the same time to "avoid meddling with the Question of the Right to lay Duties in America by Parliament" [1] was a problem beset with insuperable obstacles. In 1767 Shelburne wrote to the Board of Trade, pointing out that the system was not entirely satisfactory from the commercial standpoint, and that the governors did not correspond with the superintendents and obey the rules established by them. He laid especial stress, however, on the "enormous" expense necessitated by the plan, and asked the Commissioners to report on the entire subject.[2] Early in 1768 [3] the Board of Trade reported that all relations with the Indians should be in the hands of the Crown, and that the regulation of the trade was important because it affected the political relations with the Indians. They added, however, that their plan of 1764 was defective, and, besides, very expensive. Furthermore they pointed out that the expense might exceed the value of the end in view, "and being greater than the Trade can bear must, if the present Plan should

[1] Franklin, Writings IV, pp. 467–472. The question whether Parliament or the local assemblies should repeal the provincial laws regulating the Indian trade was also one of the chief obstacles.

[2] N.Y. Col. Doc. VII, p. 981.

[3] *Ibid.* VIII, pp. 19–31; Pa. Arch., Hazard Series IV, pp. 313–320.

be permanent, either fall upon the Colonies, in which Case it will be impracticable to settle the proportion each Colony should bear, or become a burthen upon this Country, which we humbly conceive, would be both unreasonable and highly inconvenient." Therefore the Board of Trade advised that the plan of regulating the Indian trade be abandoned, and that its management be again intrusted to the colonies.[1] This recommendation was shortly thereafter adopted.[2] Thus a well-matured plan, which was far in advance of the prevailing system, and one which was highly necessary in order to maintain peaceful relations with the Indians,[3] had to be abandoned primarily because of the expense and of the virtual impossibility of creating a revenue in America.

The inefficient regulation of the Indian trade by the separate colonies was an important factor in alienating the natives from the English, and was one of the immediate causes of their organized revolt in 1763, shortly after the conclusion of the treaty of peace. Prior to the outbreak of hostilities with France in 1754, Great Britain had maintained only small garrisons on the continent. In addition, the mother country had provided presents for the Indians. But in the main, the colonies had borne the brunt of the Indian wars. It was, however, recognized that the provincial spirit of the colonies handicapped them in their relations with the natives, and that it would be highly advisable to create a

[1] "As a means of avoiding much difficulty, and saving much expense both at present and in future."

[2] N.Y. Col. Doc. VIII, pp. 55–58. 1768.

[3] *Ibid.* VII, p. 702.

military union of the colonies for purposes of defence. On the failure of such plans in 1754 and 1755, it became apparent that it would be necessary for the mother country to maintain permanently in the colonies a much larger force than had been customary hitherto.[1]

The experiences during the war had also convinced the government that, on account of their particularism, the colonies could not be trusted to provide adequately for their own defence, and that the safety of the Empire demanded the permanent establishment of a relatively strong force in the colonies. Besides, as a result of the conquest of Canada, the Indian question had, from the military standpoint, assumed large proportions. Formerly almost all the land indisputably British had been settled, and the question of defence against the Indians had been a comparatively simple one. Now, the numerous forts in the interior had to be garrisoned, and this necessitated a large increase in the number of troops permanently stationed on the continent. Owing to their lack of union, the colonies did not desire, nor were they able, to undertake this clearly indispensable work. Besides, they had a tendency to underrate the military power of the Indians.[2] Consequently,

[1] On March 5, 1755, William Bollan wrote to Josiah Willard that some members of Parliament had told him that it was intended by some persons of consequence to keep a standing force in the colonies with a military chest there. Coll. Mass. Hist. Soc. Series I, vol. 6, p. 129.

[2] On Nov. 18, 1763, Sir William Johnson wrote to the Board of Trade: "I apprehend from what I have formerly & now wrote on this Subject, it will appear clearly to Your Lordships that the Colonies had all along neglected to cultivate a proper Understanding with the Indians, and from a mistaken notion had greatly despised them, without considering that it is in their power

the British government could not do otherwise than establish a permanent standing army in America. There was no alternative course. Furthermore, apart from the facts that brought about this decision, the return of peace with France would not of itself have allowed the withdrawal of the British troops,[1] as they were absolutely essential in suppressing the formidable Indian rebellion that Pontiac had organized.[2] The attitude of the colonies during this war still further proved the necessity of the measure.

This insurrection became so serious that on October 18, 1763, Halifax, then secretary of state, wrote to Amherst instructing him to call if necessary on the colonies for assistance.[3] In this despatch there was no direct intimation that the colonies were not to receive any compensation for their services. The situation was, however, decidedly different from that of the preceding years. The French war had been primarily an imperial one; the Indian outbreak affected the colonies much more concretely than it did the Empire. As the war was thus predominantly a colonial one, and one which, according to the well-established theory and custom of imperial defence, should have been in the main borne by the colonies, it is not surprising to find that Grenville indorsed this draft despatch of Halifax with the follow-

at pleasure to lay waste and destroy the Frontiers. — this opinion arose from our Confidence in our Scattered Numbers and the Parsimony of our People, who from an error in Politics would not expend five pounds to save twenty." B. T. Plant. Gen. 19 R 51.

[1] N.Y. Col. Doc. VIII, p. 20.

[2] Am. and W.I. 98.

[3] Am. and W.I. 77.

ing words: "It is not intended to empower him (Amherst) to make promises to ye Colonies of any repayment from hence of what they shall expend for their own defence." In accordance with this amendment of the Prime Minister, a few days thereafter Halifax wrote to the Commander-in-Chief that, in case he should have to call on the colonies for assistance, he should not give them the slightest expectation of any reimbursement.[1]

As the situation was a most serious one, Amherst asked New York, New Jersey, Pennsylvania, and Virginia to furnish some troops, but he refrained from calling on the New England colonies.[2] This led to a number of difficulties.[3] The New York Assembly thought it unreasonable that all the colonies had not been asked, and agreed to contribute their quota only if the New England colonies did likewise.[4] New Jersey followed the example of New York.[5] On account of the lack of response to the requisitions, Gage, who toward the end of 1763 succeeded Amherst as commander-in-chief, also asked the New England colonies for aid.[6] Massachusetts refused to respond to his request, not being willing to submit to any dictation from New York.[7] The

[1] Halifax to Amherst, Oct. 22, 1763. Am. and W.I. 77.

[2] Pa. Arch., 4th Series III, pp. 249–251. Amherst asked Pennsylvania only to raise, clothe, and pay 1000 soldiers.

[3] Colden, Dec. 8, 1763, to Halifax. Am. and W.I. 176. See also Report on Canadian Archives, 1885, p. 144.

[4] For further details, see N.Y. Col. Doc. VII, pp. 586, 587.

[5] William Franklin to Halifax, Jan. 12, 1764. Am. and W.I. 190. See also N.J. Col. Doc. IX, pp. 398–402.

[6] R.I. Col. Rec. VI, pp. 376, 377; Canadian Arch., 1885, p. 192.

[7] Bernard to Halifax, Feb. 6, 1764. Am. and W.I. 167.

New Hampshire Assembly, on the ground that neither Connecticut nor Massachusetts had complied, likewise refused, alleging also that they could not support the charge of the two hundred men requested by Gage "at so great a Distance as Niagara." [1] Similarly, Rhode Island would not raise the troops demanded by the Commander-in-Chief. Some of these difficulties were overcome. Thus Connecticut finally agreed to levy a small body of soldiers.[2] But in Pennsylvania, the old dispute between the proprietors and the legislature interfered with the grant of effective support.[3] Virginia, however, had responded energetically to Amherst's requisition.[4] New York ultimately raised somewhat over one-half of the number of troops desired, whereupon New Jersey agreed to provide three hundred instead of the six hundred that Amherst had requested.[5]

The general attitude of the colonies is comprehensively described by the governor of New Jersey in a despatch in which he discussed the difficulty of raising troops in the colonies. On March 6, 1764, William Franklin wrote to the Board of Trade: "The Want of Union among the Colonies must ever occasion Delay in their military Operations. The first that happens to be called upon postpones coming to any

[1] Wentworth to Halifax, March 2, 1764. Am. and W.I. 161.

[2] Fitch to Halifax, March 23, 1764. Am. and W.I. 197.

[3] Gage to Haldimand, Feb. 15, 1764 in Canadian Arch., 1885, pp. 144, 145; Halifax to John Penn, Oct. 18, 1763 in Am. and W.I. 197. *Cf.* N.Y. Col. Doc. VII, pp. 529, 530, 570.

[4] Fauquier to Egremont, April 8, 1763, and Halifax to Fauquier, Oct. 19, 1763. Am. and W.I. 205.

[5] Franklin to Halifax, March 6, 1764. Am. and W.I. 190.

Determination till 'tis known what the other Colonies will do; and each of those others think they have an equal Right to act in the same Manner. This procrastinating Conduct, owing to the Jealousies and Apprehensions each Colony has lest it should happen to contribute Somewhat more than its Share, is the Reason why the American Levies are sometimes delay'd till the Season for Action is nearly elapsed." [1] In view of these facts, the following words of Halifax seem somewhat mild. On May 12, 1764, he wrote to Colden: "It were much to be wished that the several Colonies whose assistance was required had chearfully exerted themselves to raise the full numbers of Men demanded of them by His Ma^tys^ Commander-in-Chief." [2]

Thus it was again demonstrated that the requisition system was absolutely unworkable. Its inefficacy rendered the establishment of a standing army in America essential. In fact, the failure of the colonies to respond to the requisitions in 1764 forced both Amherst and Gage to disobey their instructions to reduce the regular force in America.[3] The

[1] B. T. N.J. 9 K 41. See also Franklin's speech to the New Jersey legislature in the "New-York Mercury," March 5, 1764, no. 645. Benjamin Franklin, the father of this governor, when examined before the House of Commons in 1766, tried rather disingenuously to put the attitude of the colonies in a more favorable light. Parl. Hist. 16, p. 154; Franklin, Writings IV, pp. 440, 441.

[2] N.Y. Col. Doc. VII, p. 627.

[3] Secretary at War, Ellis, to Halifax, June 16, 1764, to the effect that notwithstanding his orders to reduce the army to the peace establishment, Amherst had ventured to keep two additional regiments. In his letter of April 18, 1764, Gage stated that "from the small assistance given by the colonies" he was obliged to retain these two regiments also. Cal. Home Office Papers, 1760–1765, p. 420, no. 1355. *Cf.* no. 1356.

British government was left no choice, and was forced to keep a large force on the continent.

This measure was a direct result of existing military conditions. As, however, it was generally recognized in England that there was in the continental colonies a marked tendency toward independence, the fact that such a standing army would serve as a counteracting agency was not totally ignored.[1] At most, however, if at all a motive of this measure, it was a distinctly subordinate one. Until the revolutionary movement was well under way, several years after the adoption of this policy, but very slight, if any, stress was laid on the American army as a weapon of coercion.

Prior to the French war, only small garrisons had been

[1] On Aug. 15, 1755, Shirley wrote to Robinson urging the conquest of Canada, denying the probability of the secession of the North American colonies, and adding: "At all Events, they could not maintain such an Independency, without a Strong Naval Force, which it must forever be in the Power of Great Britain to hinder them from having: And whilst His Majesty hath 7000 Troops kept up within them, & in the Great Lakes upon the back of six of them, with the Indians at Command, it seems very easy, provided the Governors & principal Civil Officers are Independent of the Assemblies for their Subsistence, & commonly Vigilant, to prevent any Steps of that kind from being taken." Am. and W.I. 82. There is also extant in the British archives an unsigned and undated plan of the forts and garrisons necessary for the security of America. This plan was probably drawn up in 1762. It specifies five reasons for keeping an army in America, of which the second is "to retain the Inhabitants of our antient Provinces in a State of Constitutional Dependance upon Great Britain." The fort at Crown Point, it was claimed, would, among other advantages, "be usefull in guarding against Disobedience, or Defection amongst the Inhabitants of the Maritime Provinces, who already begin to entertain some extraordinary opinions concerning their Relation to, & Dependance on their Mother-Country." B. T. Plant. Gen. 18 Q.

maintained in the American colonies, and the expense involved thereby was comparatively insignificant. Exclusive of the expenditure of the Ordnance Board, it amounted to only about £80,000 yearly. Of this amount only £13,000 was spent for the forces in those provinces that ultimately formed the United States. The establishment of a standing army of ten thousand men in America after 1763 greatly increased this outlay.[1] The yearly cost of this force was about £320,000, and consequently it involved an additional expenditure of about £220,000.[2] These troops were distributed in the West Indies and on the continent, but almost

[1] In 1764, the expenditure of the War Office for these garrisons in America was £252,093; in 1765, £268,054; in 1766, £272,737. Commons Journal 29, p. 681; 30, pp. 21, 470, 471. In 1764 Parliament voted £372,774 for the garrisons in the plantations, and in Minorca and Gibraltar, of which £120,681 was for Minorca and Gibraltar. 4 Geo. III, c. 23. In 1765 and 1766 the respective parliamentary grants were £327,502 and £332,183. 5 Geo. III, c. 40; 6 Geo. III, c. 41. If from these two latter grants there be deducted the cost of the garrisons in Minorca, Gibraltar, and Africa, it would appear that £60,000 less than the amount given above was spent on the garrisons in America during these two years. This apparent discrepancy arises from the fact that Parliament also appropriated £60,000 from the income that it was expected would be derived from the American revenue acts toward defraying the cost of these garrisons. Commons Journal 30, pp. 352, 780. Thus the cost of the army was about £260,000 yearly. This, however, does not include the outlay of the Ordnance Board for the American army. In 1764 Parliament granted £225,439 to the Ordnance Board, and in 1765 £230,193, but the estimates of this department do not carefully specify the amounts spent in the colonies. 4 Geo. III, c. 23, 5 Geo. III, c. 40 §§ 18, 19; Commons Journal 30, pp. 25–27. A considerable sum was, however, thus spent, about £60,000 yearly. Commons Journal 29, pp. 686, 687; Am. and W.I. 387 fo. 63; G. B. Hertz, The Old Colonial System (Manchester, 1905), p. 74. Thus the total cost of the American army was about £320,000 yearly. See also Treas. Misc. Various, Bundle 197 (Estimate Book, pp. 6, 10).

[2] In reaching this result, the cost of the garrisons in the colonies prior to

the entire increase in expenditure was due to the necessity of keeping a considerable body of soldiers in North America.[1]

According to the well-recognized theory and practice of imperial defence, this expense should, in part at least, have been defrayed by the colonies. It was generally held that the mother country's duty as regards protection did not include the maintenance of permanent garrisons in the colonies. Thus even James Otis said that it was not "an unreasonable thing" to ask the colonies to contribute to the support of this standing army because "*qui sentit commodum sentire debet et onus.*" [2] Great Britain owed the colonies protection, but by this was meant military assistance during war, and, more especially, naval defence at all times. The failure of the colonies in 1754 to provide for their defence by means of a union, and the subsequent unwillingness of a number of them to coöperate vigorously with the British

1755 had been raised to £100,000 by estimating the expense of the Ordnance Board at that time at £20,000 yearly.

[1] Am. and W.I. 387, fo. 63. Of the twenty battalions in America, fifteen were located on the continent, and five in the West Indies. Brit. Mus. Addit. MSS. 33030 (Newcastle Papers CCCXLV, p. 19). In addition, Great Britain supported the civil establishments in Nova Scotia, Georgia, and in East and West Florida, and paid the cost of managing Indian affairs. 3 Geo. III, c. 17; 4 Geo. III, c. 23; 5 Geo. III, c. 40; 6 Geo. III, c. 41. See Treas. Misc. Various, Bundle 197 (Treas. Book of Payments, 1760–1769, pp. 47–50). These and other minor items would bring the entire charge on the British exchequer on account of the military and civil establishments in the colonies up to about £380,000 yearly.

[2] Otis, The Rights of the British Colonists Asserted and Proved. (Boston, 1764), pp. 35, 36. In 1765 Stephen Hopkins frankly said: "The protection promised on the part of the crown, with chearfulness and great gratitude we acknowledge, hath at all times been given to the colonies." The Rights of the Colonies Examined (Providence, 1765), p. 9.

forces, led at the time to numerous proposals that Parliament should impose taxes on the colonies in order to make them bear their equitable share of the burden of defence.[1] These suggestions were inopportune on account of the impending war; they were not rejected, but merely laid aside.

During the war itself the matter was not dropped. A colonial stamp tax was proposed to Pitt.[2] The backwardness of several colonies, notably Maryland and Pennsylvania, led many to the conclusion that parliamentary taxation was the only remedy.[3] In 1757 Loudoun wrote to Pitt, "that if some Method is not found out of laying on a Tax, for the Support of a War in America, by a Brittish Act of Parliament, it appears to me, that you will continue to have no Assistance from them in Money, and will have very little Assistance in Men." [4] The difficulty in securing adequate support from

[1] Sharpe Correspondence I, p. 99.

[2] Parl. Hist. 16, p. 105.

[3] In 1757, Governor Sharpe of Maryland wrote that it grieved him to think that we should find such difficulty in raising a paltry sum to support a few hundred men to defend our frontiers, when we could afford to support 1000 more for the general service, if Parliament compelled us. "There is scarcely a Person of Common Sense among us but laments that no Act of Parliament has been yet made for that purpose, for my own part I am of Opinion that nothing else can effectually preserve these Colonies from Ruin." Sharpe Correspondence II, pp. 85, 86. *Cf.* also Sharpe to Calvert, Nov. 9, 1757. *Ibid.* II, p. 100. On Nov. 15, 1757, Sharpe wrote to Loudoun: "Indeed the superiour Class of People in every part of the province are already much dissatisfied at the Assembly's proceedings & declare publickly that they should be well pleased if the Legislature of Great Britain, would ease the Assembly of the trouble of framing supply Bills by Compelling us by an Act of Parliament to raise £20,000 annually by a Poll Tax as the Quota of this Province towards carrying on the War." *Ibid.* II, p. 105.

[4] Pitt Correspondence I, p. 44. On Nov. 10, 1757, Brigadier Waldo

the colonies during the war with France, and subsequently thereto during the Pontiac conspiracy, convinced the British government that parliamentary taxation was the sole and only means of obtaining from the colonies their just share of the cost of their own defence.[1] Thus on March 10, 1764, Calvert wrote to Governor Sharpe of Maryland that he had predicted that colonial taxation would be inevitable on the

suggested a comprehensive scheme of colonial taxation. Am. and W.I. 81.

[1] According to a private letter sent early in 1762 from London to New Jersey, it was reported at that time that Parliament would lay a tax on America. N.J. Col. Doc. IX, p. 339. In the controversial literature of 1764 and 1765, a large number of colonial writers asserted that the colonies had contributed their full proportion during the war. See, *e.g.*, Oxenbridge Thacher, The Sentiments of a British American (Boston, 1764), p. 6; James Otis, The Rights of the British Colonists (Boston, 1764), pp. 57, 58; Stephen Hopkins, The Rights of the Colonies Examined (Providence, 1765), pp. 9, 22. It should be noted that these were New England writers, and that Massachusetts had been exceptionally public-spirited. In addition, this colony had suffered considerably from the fact that the expenses of the war were in great part met by taxes and not by loans. In 1766 Franklin made a similar assertion, stating that the colonies had "raised, paid, and clothed near 25,000 men during the last war; a number equal to those sent from Britain, and far beyond their proportion." Franklin, Writings IV, p. 437. *Cf. ibid.* pp. 402, 405; Parl. Hist. 16, p. 139. As far as concerned the campaigns of 1758 and 1759, this statement is only somewhat inaccurate. *Cf.* Cal. Home Office Papers 1760–1765, p. 24, no. 98. It should be remembered, however, that these soldiers were, as a rule, enlisted only for a few months, and that a large proportion of their cost was paid by Parliament. As far as concerned the years 1755, 1756, 1757, 1760, 1761, and 1762, Franklin's statement is a gross exaggeration. In 1760 the colonies, exclusive of South Carolina, provided only 15,862 soldiers. Minutes of the Provincial Council of Pennsylvania IX, p. 48. Then for the campaign of 1761, for which two-thirds of the previous levies were asked, the colonies voted to raise 10,607 men, of which they actually raised only 8796, and of these but 1266 remained in service during the winter. Corr. of Col. Gov. of Rhode Island II, p. 349. These general broad statements were made during a heated controversy, and

return of peace because of "the colonies remiss^{es} of Duty to the Crown & themselves in defence g^{t} the Enemy the French, who neither at the commence nor during the War in America where our equals, either in Strength or Circumstances, our Colonies Superiour in all, & with a Little Assistance our People of the Colonies might have subdued the French." But an army had to be sent from England which gained the victories which resulted in the peace of 1763. Since then, a "War has broke out upon the Colonies by the Savages, the colonies neglect by their provincial Legislatures not raising subsidies to avert, nor in defence, stand still & see their Neighbours cruly Butchered by the Savages, squabling ab^{t} framing Assessm^{t} Bills to pass, tho' in Defense bound to his Majesty & themselves, send to the mother country for money aid & assistance of Troops." [1]

In consequence of the patent fact that the colonies, as a whole, would not voluntarily contribute their share of the military burden, it was decided to tax them for this purpose.[2] This decision was the logical result of events from the year 1754 on. The British government might again have tried to form a union of the colonies as it had done

in so far as they imply that the colonies as a whole were zealous in prosecuting the war, are diametrically opposed to the actual facts.

[1] Sharpe Correspondence III, p. 145. *Cf.* also Daniel Dulany, Considerations on the Propriety of Imposing Taxes (2d ed. Annapolis, 1765), p. 21; Franklin, Writings IV, p. 427.

[2] Thus on Feb. 23, 1763, Rigby wrote to the Duke of Bedford: "I understand part of the plan of the army is, and which I very much approve, to make North America pay its own army." Bedford Correspondence III, p. 210. *Cf.* Sharpe Correspondence III, pp. 87, 88.

in 1754; but the colonies had shown such an aversion to the scheme that any such attempt was inevitably doomed to failure. On the other hand, the mother country might have borne the whole burden of defence, even though this would have violated the prevailing theory and custom. Such a step was, however, decidedly inadvisable, not only because it might be the entering wedge for still larger future increases in the colonial budget, but also because of the existing strain on British finances. The war had about doubled the debt,[1] which stood at the exceedingly large figure of one hundred and thirty million pounds, with an annual interest charge of four and one half million pounds.[2] In addition, Great Britain was spending large sums on the navy, which was regarded as the Empire's main bulwark. Even after the conclusion of peace, Parliament granted annually one and a half million pounds for this purpose.[3] Consequently, British financial resources were severely strained, and the already overburdened taxpayer in the mother country was in no humor to undertake more than his fair share of the expense of defending the colonies.[4] In the eyes of the colonies, the

[1] The Regulations Lately Made, p. 56; Dowell, A History of Taxation and Taxes in England II, p. 128.

[2] Commons Journal 29, pp. 432, 760.

[3] In 1763, Parliament granted £2,040,661; in 1764, £1,430,568, besides £650,000 on account of the navy's debt; in 1765, £1,439,734. 3 Geo. III, c. 17; 4 Geo. III, c. 23; 5 Geo. III, c. 40.

[4] The land tax in Great Britain was 4*s*. in the pound, producing about £1,600,000. 4 Geo. III, c. 2; 5 Geo. III, c. 5. It was hoped that the colonial revenue would in part enable the government to reduce this tax to 3*s*. Walpole, Memoirs Geo. III, vol. II, pp. 298–300; Lothian MSS. (Hist. MSS. Com. 1905), p. 275.

imposition of a parliamentary tax on America would, however, violate the principle of "no taxation without representation." This principle they regarded as the basis of civil and political liberty; and even if its violation could be justified in their eyes, it meant that the colonies were to contribute funds toward the support of an army over whose actions they would have no control. The adoption of either alternative of this dilemma [1] was bound to lead the British government into serious difficulties. But some decision was imperative, for a policy of inaction would have been suicidal.

[1] As a possible solution of the difficulty, it was suggested in 1754 that the colonies should send members to Parliament. (Franklin, Writings III, p. 238.) James Otis favored this plan. (The Rights of the British Colonists, pp. 35, 36, 59.) William Knox likewise advanced this proposition, and said that Grenville approved of it. (Knox, Extra Official State Papers II, p. 31.) Soame Jenyns maintained that the idea was impracticable. (The Objections to the Taxation of our American Colonies, pp. 17, 18.) The idea was never seriously considered, and did not commend itself either to the mother country or to the colonies. *Cf.* John Dickinson, Writings (ed. P. L. Ford) I, p. 185. Among the British State Papers for 1747, but probably of an earlier date, is an elaborate scheme for colonial taxation emanating from one of the Northern colonies. The author thereof wrote: "Whereas it may perhaps be objected that it will be hard for these Countrys to have Laws imposed upon them by the Parliament of Great Brittain where they have none to represent them I begg leave to propose that each Governm[t] on this Continent may have Liberty to ellect persons either residing in these Countrys or Great Brittain to sit in Parliament." Am. and W.I. 603.

CHAPTER XIII

THE REVENUE ACTS OF 1764 AND 1765

EARLY in the year 1763, it was definitely known that it was the intention of the British government to keep an army of ten thousand men in America, and that the colonies were expected to contribute to its support. The statesman who carried this policy into effect was George Grenville. Of a scientific and unimaginative temperament, with a distinctly legal cast of mind, he adopted a policy fraught with disastrous consequences. The justice of the demand that the colonies should defray in part the cost of their permanent military establishment was clear to all. The old requisition system was patently unworkable. Hence inevitably recourse was taken to parliamentary taxation, of whose formal legality there could be but little doubt. In adopting this policy, Grenville met with no opposition in Great Britain, and the attitude of the colonies was such that he had little, if any, reason to foresee the gravity of its results. On March 12, 1763, the agent of Massachusetts officially informed the colony of the contemplated step, yet eleven months later he was still without instructions, and consequently did not work against the measure. "Nor do I find," he wrote, "the least disposition in the other agents to oppose it." [1] It remained then to

[1] Jasper Mauduit to the Speaker of the House of Representatives in Massachusetts, Feb. 11, 1764. Mass. Hist. Soc. Coll. Series I, vol. VI, pp. 194–195.

decide in what form Parliament should create such a colonial revenue, and to this task Grenville devoted especial care and attention.

On May 5, 1763, the Earl of Egremont, as Secretary of State for the Southern department in Grenville's cabinet, instructed the Board of Trade to report "in what Mode, least Burthensome & most palatable to the Colonies, can they contribute towards the Support of the Additional Expence, which must attend their Civil and Military Establishments," in consequence of the newly acquired territory and the number of forts therein.[1] The Board of Trade, over which Shelburne then presided, gave an evasive answer, merely stating that they were as yet powerless to form any opinion.[2] It will be noticed that at this time the intention was, that this revenue should likewise be devoted toward defraying that portion of the regular governmental expenses in the colonies, which was defrayed by the British exchequer.[3] Great Britain paid in part the salaries of a

In the instructions of Boston to its representatives, May, 1764, surprise was expressed "that when so early Notice was given by the Agent of the Intentions of the Ministry to burthen us with new Taxes, so little Regard was had to this most interesting Matter, that the Court was not even called together to consult about it till the latter end of y^e^ Year; the Consequence of which was, that Instructions could not be sent to the Agent, tho sollicited by him, till the Evil had got beyond an easy Remedy." Samuel Adams, Writings I, p. 4.

[1] B. T. Plant. Gen. 17 Q 31; *Ibid.* 45, pp. 212–262.

[2] *Ibid.* 45, p. 260.

[3] On Jan. 11, 1764, Dobbs wrote to Halifax: "I apprehend the British parliament may lay Duties upon goods imported into the Several Colonies to Support the Troops Necessary to Secure our great acquisitions on this Continent, as also to support the additional officers of revenue." Am. and W.I. 214.

number of the colonial governors, those of North and South Carolina, as well as those of the Bahamas and the Bermudas.[1] In addition, Parliament annually provided for the governmental expenses of Georgia and Nova Scotia, and, subsequent to the peace, for those of East and West Florida as well. The idea of devoting the colonial revenue to such purposes was, however, abandoned by Grenville. Nor was it his intention to use this revenue to pay the salaries of the governors, judges, and other Crown officials in the remaining colonies, thus freeing them from their dependence on the provincial assemblies. His object was not to remodel the system of government prevailing in the colonies, but merely to create a revenue which should in part defray the cost of the American army. At the time of the introduction of the Stamp Tax, it was Grenville's intention to use the colonial revenue solely for military purposes,[2] and the acts of 1764 and 1765 distinctly appropriated these funds to such objects alone.

Toward this purpose of creating an American revenue, nothing was done in the parliamentary session of 1763; but in 1764, the "Sugar Bill" was passed. This was a comprehensive measure, whose openly expressed aim was,

[1] B. T. Barbados 29 Aa 104; Treas. Misc. Various, Bundle 197 (Treasury Book of Payments, 1760–1769).

[2] Knox, Extra Official State Papers II, pp. 24, 25. *Cf.* also Jasper Mauduit in Mass. Hist. Soc. Series I, vol. VI, pp. 194, 195; Israel Mauduit in Almon, Biographical Anecdotes II, pp. 86, 87. In his answer to Soame Jenyns's pamphlet, James Otis correctly said: "I cannot find any intention of applying any part of the new American revenue to the discharge of the provincial civil list." Considerations on Behalf of the Colonists (2d ed. London, 1765), p. 27.

in the first place to raise a colonial revenue, and in the second to reform the old colonial system, both in its administrative and in its economic features. It was the first statute distinctly taxing the colonies, and marked a radically new departure in colonial policy. The intent of the act is clearly stated in the words of the preamble: "Whereas it is just and necessary, that a revenue be raised in your Majesty's said dominions in America, for defraying the expences of defending, protecting and securing the same," Parliament imposes a series of taxes in the colonies.[1] The revenue arising from this act, less the charges of collection, was to be paid into the exchequer, "and shall be reserved, to be, from time to time, disposed of by parliament, towards defraying the necessary expences of defending, protecting, and securing, the British colonies and plantations in America."[2]

The duties imposed by this act were various in nature. In the first place, Grenville availed himself of the existing Molasses Act of 1733.[3] The law imposed very high duties on foreign sugar, rum, and molasses imported into the colonies, but until 1759 it had been virtually ignored. Its aim had been to develop the British West Indies at the expense of the French colonies, and consequently of French commerce. Owing to the dissatisfaction with the terms of the treaty of peace, this policy was now revived. The Molasses Act was made perpetual,[4] but at the same time was fundamentally modified. In order to encourage the production of indigo

[1] 4 Geo. III, c. 15 § i.
[2] *Ibid.* § xi.
[3] 6 Geo. II, c. 13.
[4] 4 Geo. III, c. 15 § v.

in the British colonies, such as South Carolina, where it had become a firmly established industry, a duty was imposed on foreign indigo imported into the colonies.[1] Instead of the old duty on foreign rum, its importation was absolutely forbidden.[2] This prohibition resulted from the fact that Guadeloupe and Martinique, while in British hands, had learned to make rum. As France, in the interests of its brandy industry, prohibited rum, these colonies had no regular outlet.[3] Consequently this prohibition was designed to hurt French industry, and to benefit the British West Indies and the continental colonies as well, in both of which rum was extensively manufactured. The old duty on raw sugar was maintained, and an additional duty was levied on foreign refined sugar.[4] The continental colonies were not, however, seriously affected by these duties, as they experienced difficulty in procuring foreign sugars.[5] In fact, no one of these

[1] In addition, a duty of £2 19*s.* 9*d.* a cwt. was imposed on foreign coffee imported into the colonies from any place but Great Britain. This duty had a similar object in view and was very high, the value of coffee being £3 a cwt. The Regulations Lately Made, p. 76. [2] § xviii.

[3] The Regulations Lately Made, pp. 78, 79.

[4] Foreign white or clayed sugar imported into the British colonies had to pay £1 2*s.* a cwt. over and above the duty of 5*s.* a cwt. imposed in 1733. It was claimed that these duties interfered with the carrying trade of the Northern colonies, as French sugars were brought in small vessels from the West Indies to the continental colonies, where they were trans-shipped in larger vessels to Europe. During the war, the question arose whether or not such sugars had to pay the duties. The matter was definitely settled in 1766, when a warehousing system was provided, by means of which sugars, as well as other foreign products, could be reshipped from the colonies without paying any duties. 6 Geo. III, c. 52 § xvi. *Cf.* also on this The Regulations, etc., pp. 86, 87.

[5] In the Rhode Island memorial of 1764 against the renewal of the Molasses Act, it was stated, that as far as concerned their staple, sugar, the British West

duties or regulations was important, either from the fiscal or from the commercial standpoint.

Chief interest centred on the molasses duty, which, according to the act of 1733, was sixpence a gallon. This duty was virtually prohibitory, and as foreign molasses was absolutely essential to the Northern colonies, the law could not be enforced. It was recognized, however, that a reduction of the duty would both yield a revenue and also protect the British West Indies from French competition. In March 1763, Charles Townshend, then first Lord of Trade, proposed to reduce the duty to twopence.[1] The matter was, however, dropped in Parliament and deferred until the next session.[2] All in England agreed "that a practicable duty should be laid, and the payment of it enforced." Some thought the duty should be fourpence; Grenville was satisfied with twopence; and the agents of the continental colonies endeavored to procure its reduction to but one penny.[3] The West Indian interest, however,

Indies could receive no prejudice from this trade of the continental colonies with the foreign plantations, "for it is well known that the Policy of both the French and Dutch has confined the Trade of Sugar to themselves so that we never obtain any of that Commodity from them save now and then a small Quantity of an ordinary Kind; which is generally procured (not without Hazard) by the Assistance and Address of those Merchants there who help us in the Transaction of our Business." B. T. Prop. 21 X 57.

[1] Mass. Hist. Soc. Series I, vol. VI, p. 193; Cal. Home Office Papers, 1760–1765, p. 266, no. 811.

[2] Commons Journal 29, p. 617.

[3] Mass. Hist. Soc. Series I, vol. VI, p. 193. On Aug. 3, 1763, Hutchinson wrote to Jackson: "To reduce the duty to a penny per gallon I find would be generally agreeable to the people here, & the merchants would readily pay it." Quincy, *op. cit.* p. 435.

was very influential and succeeded in having the duty established at threepence.[1] In place of a prohibitive tax, a revenue duty was imposed, which could and did yield a fair return.

In addition to the Molasses Act, there was in existence prior to 1764 another act of Parliament in the form of a revenue bill, whereby the colonies were affected. This was the law of 1673, which imposed small export duties on some colonial products when shipped to another British colony. In 1764, coffee and pimento were added to this list of products; these duties were, however, unimportant.[2]

Then, Grenville made use of the fact that large quantities of wine were consumed in America. The bulk thereof was imported directly from the wine islands off the coasts of northern Africa, especially from the Madeiras, practically none being shipped from Great Britain to the colonies. Comparatively high import duties were imposed on such wines when imported into the colonies from these islands, while wine imported from Great Britain had to pay only low duties.[3]

[1] Mauduit, Feb. 11, 1764, in Mass. Hist. Soc. as *ante* p. 194. 4 Geo. III, c. 15 § vi. The author of The Regulations Lately Made, p. 79, estimated the expense of smuggling under the old act at 1½ *d.* a gallon. This is, however, merely a surmise, and is patently a gross exaggeration. The price of molasses was approximately 1*s.* a gallon. Brit. Mus. Addit. MSS. 33030 (Newcastle Papers CCCXLV, folio 137).

[2] British coffee 7*s.* a hundredweight; British pimento ½*d.* a pound. *Ibid.* §§ ii, iii.

[3] Every tun of Portuguese, Spanish or other wine, except French, imported from Great Britain, 10*s.*; every tun of Madeira or similar wines imported directly, £7. At the same time, however, the British duties on wines thus re-exported to the colonies were reduced from £11 13*s.* 6*d.* to £3 10*s.* Thus there

Thus the object of these duties was not only to raise a revenue, but also to divert the wine trade of the colonies from the Madeiras to Great Britain. It was one of the measures whose distinct object was to give the mother country a greater command of the colonial market.

Furthermore, the act of 1764 imposed import duties in the colonies on certain classes of Oriental and French textiles,[1] whose use had been absolutely prohibited in Great Britain.[2]

Grenville also adopted another device to increase the revenue. As already pointed out, the British fiscal system was so arranged that foreign products could be shipped from the mother country to the colony on the payment of slight duties. The general rule, to which there were some important exceptions, was that all the duties were repaid on foreign goods reëxported from Great Britain except one-half of the "Old Subsidy" of 1660. The amount of duty retained was, roughly speaking, $2\frac{1}{2}$ per cent.[3] Under this system a considerable part of the exports from Great Britain to the

was created a differential duty of £3 a tun in favor of wines imported from Great Britain. *Ibid.* § xii. *Cf.* The Regulations, etc., pp. 74, 75, 92, 93.

[1] Persian, Chinese, and East Indian silks and printed calicoes, as well as foreign cambrics and French lawns.

[2] 11 and 12 Wm. III, c. 10; 7 Geo. I, stat. I, c. 7; 18 Geo. II, c. 36. *Cf.* The Regulations, etc., p. 70.

[3] In 1761 the total amount thus repaid on foreign goods exported to the colonies was £99,051. The chief items were £39,500 on calicoes, and £28,000 on German linens. B. T. Com. Series II, 626 B 31. The drawbacks on foreign linens exported from England to the colonies were in 1752 £40,063, and in 1753 £40,749. Treas. Acc. Rev. Misc. (England), Bundle 77. These drawbacks amounted to nearly 90 per cent. of the entire duties. Thus in 1743, 120 ells of German linen paid £1 13*s.* $5\frac{13}{20}$*d.* duty, and the drawback thereon amounted to £1 8*s.* $8\frac{13}{20}$*d.* B. T. Com. Series I, 40 BB 15.

colonies consisted of foreign goods.[1] The proportion varied, but was approximately one-quarter of the whole.[2] In 1764, this system was changed in that thereafter no part of the old subsidy of 1660 was to be repaid of foreign goods exported from Great Britain to the American colonies.[3] This subsidy amounted to 5 per cent of the value of the commodities as determined by the "Book of Rates."

It is absolutely impossible to figure exactly to what extent this change increased the revenue.[4] The amount was probably about £20,000 yearly.[5] This increase would naturally appear solely in the British customs-revenue; and though virtually a direct tax on the consumer in America and the West Indies, it would not form a direct part of the fund devoted to defraying the cost of defending the colonies.

[1] During the decade from 1721 to 1730, the average annual exports from England to the continental colonies were £471,000, of which £136,000 consisted of foreign goods. The corresponding figures for the decade 1739 to 1748 were £748,000 and £224,000. Am. and W.I. 687.

[2] For full details during the years 1758 to 1763, see Customs Records, Ledgers of Imports and Exports, vols. 59–64.

[3] §§ xiii, xiv. There were certain exceptions, as wine, which has already been noted. Then, white calicoes and muslins, in addition to not drawing back any part of the old subsidy, could not draw back £4 15*s.* in £100, *i.e.* one-third of the net duties granted in 1700 and 1704. It should be noted that those textiles, on which this act imposed duties when imported into the colonies, still continued to pay only the half subsidy. 11 and 12 Wm. III, c. 10; 32 Geo. II, c. 32.

[4] As was said in 1765, "no exact Calculation can be made of the Produce to be expected from this Duty." The Regulations, etc., pp. 59, 60.

[5] The increase was 2½ per cent, but the values as given in the book of rates are to a great extent arbitrary. The total exports of foreign goods from Great Britain to the colonies in the five years 1769 to 1773 were £3,766,924. B. T. Com. Misc. Trade Statistics, vol. 7.

This change in the drawback system likewise favored the sale of British manufactures in the colonies, since those of foreign countries were burdened with an additional tax, which, though slight, unquestionably had some effect.[1]

Apart from the increase in the British revenue by the change in the drawback system, the act of 1764 produced in the short time in which it was in force, £25,000 yearly.[2] Of this amount, about three-quarters was derived from the duties on molasses and wines.[3] Thus, figuring the increase in in-

[1] This was important chiefly in connection with foreign coarse linens. The Regulations, etc., pp. 60–70.

[2] Payments into the exchequer under the following acts:

	ACT OF 1673	ACT OF 1733	ACT OF 1764
1765	£2,954	£6,274	£3,217
1766	7,373	786	21,990
1767	3,905		29,244

Treas. Acc. Rev. Misc. (England), vol. 59. These are net amounts; the gross amount for the act of 1764 was about £4600 per annum more. See Treas. Misc. Various, Bundle 197 (Estimate Book, p. 38); Treas. Acc. Rev. Misc. (England) Bundle 80: (An account of the produce of 4 Geo. III.).

[3] An account of the produce of the duties imposed by 4 Geo. III. from Sept. 29, 1764, as far as the accounts have been received.

Dated: Custom-House, London, Nov. 12, 1766.

Import duties:	
White sugar	£6
Raw sugar	5,389
Indigo	98
Madeira wine	12,835
Porto wine	859
Textiles	3,509
Molasses	17,699
Export duties:	
Coffee	1,089
Pimento	126
	£41,610

Treas. Acc. Rev. Misc. (England), Bundle 80.

come due to the change in the drawback system at £20,000, this act produced a revenue of £45,000, contributed in varying degrees by the West Indian and North American colonies. This revenue would, however, cover only about one-seventh of the cost of the American army, and was considerably less than the colonies' just proportion of the military establishment.

That the act of 1764 would not produce an adequate colonial revenue was recognized at the time. When Grenville introduced the bill in the House of Commons, he stated that it was his further intention to institute a colonial stamp tax.[1] Action thereon was, however, deferred until 1765, as Grenville desired to give the colonies time to consider it, and also the option of suggesting some other tax that might be more agreeable to them. He told the colonial agents that, if America preferred a different method, he would be content, provided only the money were raised.[2] This proposal aroused intense opposition in the colonies,[3] but as the only alternative suggested by them was the hopelessly impracticable requisition system,[4] Grenville persisted in his

[1] Commons Journal 29, p. 935; The Regulations, etc., p. 101; N.Y. Col. Doc. VII, p. 646; Sharpe Correspondence III, pp. 108, 109. On Henry McCulloh's connection with this tax see Grenville Papers II, pp. 373, 374; Brit. Mus. Addit. MSS. 35910 and 35911 (Hardwicke Papers DLXII and DLXIII).

[2] Almon, Biographical Anecdotes II, pp. 86, 87; William Knox, The Claim of the Colonies to Exemption from Taxes (London, 1765), pp. 27 *et seq.*

[3] Va. Mag. of Hist. XII, pp. 6, 9; Votes and Proceedings of the House of Representatives of Pennsylvania (Phila. 1775), V, pp. 355, 356, 376.

[4] *Cf.* Soame Jenyns, The Objections to the Taxation of our American Colonies (2d ed. London, 1765), pp. 15, 16.

intention. He did not appreciate the gravity of the situation, nor did any one else in England, not even the colonial agents. The British government was used to strenuous popular opposition to new taxes, and realized, as Grenville said, "that all men wished not to be taxed." [1] Only two years before, the imposition of a tax on cider in England had resulted in disturbances of so serious a nature that the soldiers had to be called upon to restore order.[2]

Accordingly, in 1765, Grenville introduced the famous Stamp Act, which became a law after meeting with virtually no opposition.[3] In conformity with its custom not to receive petitions against revenue bills, the House of Commons rejected those from the colonies against this measure. The same action was taken in regard to a petition against the cider tax, that had led to the above-mentioned disturbances in England.[4] The Stamp Act was passed, as the preamble distinctly states, because a further revenue was necessary for defraying the expense of protecting the American colonies. According to it,[5] all legal and commercial documents, pamphlets, newspapers, almanacs, cards and dice in the colonies had to have a stamp affixed to them. The revenue arising therefrom, less the charges of collection, was to be kept as a separate fund in the exchequer, and was to be disposed of by Parliament for the defence of the colonies. The amount of this revenue was variously estimated at from £60,000 to £100,000, of which a

[1] Almon, *op. cit.* II, p. 88.
[2] Walpole, Geo. III, vol. I, p. 198.
[3] Parl. Hist. 16, pp. 34 *et seq.*
[4] Walpole, Geo. III, vol. II, p. 56.
[5] 5 Geo. III, c. 12.

large part, probably about one-half, would have been paid by the West Indian colonies.[1] Thus the acts of 1764 and 1765 were calculated to produce a total revenue [2] of from about £105,000 to £145,000. In other words, these acts would yield an income sufficient to meet from one-third to somewhat less than one-half of the cost of the American army. This revenue was to be derived from all the colonies, though the chief outlay was occasioned by the garrisons on the continent of America.

[1] Parl. Hist. 16, p. 183; Sharpe Correspondence III, p. 287; Walpole, Geo. III, vol. II, p. 189; Grenville Papers II, pp. 373, 374; Brit. Mus. Addit. MSS. 33030 (Newcastle Papers CCCXLV, folios 95, 197, 334). The gross produce of the stamp taxes in Great Britain, exclusive of those on apprentices which were not extended to America, was £142,000, and the net produce £121,000. *Ibid.* folio 334.

[2] This includes the increase in the British customs revenue due to the change in the drawback system.

CHAPTER XIV

COLONIAL OPPOSITION

THESE various measures of the years 1764 and 1765 meant an expansion of the sphere of the imperial government's activity, and hence necessarily greater control over the colonies. The movement was to a large extent one of increased administrative efficiency, and though not aimed at colonial self-government, inevitably implied some diminution of colonial freedom of action. The use of the navy for administrative purposes, the presence of an army in America, the imperial regulation of Indian trade, and in general the increased number of British officials, all emphasized in concrete form the fact that the colonies were not independent communities, but parts of a larger political system.[1] On these broad grounds, this general policy was

[1] There was also, on the part of some in England, an intention to extend the Episcopal system to America. This step seemed not improbable in 1763, but it did not actually become a part of British policy. The proposal aroused considerable opposition in New England. In 1764, however, Franklin said that "a Bishop for *America* has been long talk'd of in *England*, and probably from the apparent Necessity of the Thing, will sooner or later be appointed; because a Voyage to *England* for Ordination is extreamly inconvenient and expensive to the young Clergy educated in *America;* and the Episcopal Churches and Clergy in these Colonies cannot so conveniently be governed and regulated by a Bishop residing in *England*, as by one residing among those committed to his Care." Franklin, Writings IV, p. 237. See also N.Y. Col. Doc. VII, pp. 348–349; Charles Chauncy, A Letter to a Friend (Boston, 1767), pp. 45

distasteful to the colonies. It checked, or rather ran counter to, the tendency toward autonomy that had hitherto been a marked feature of the constitutional development of the Empire.

The use of the navy as part of the administrative machinery was disliked by the colonies. Governor Bernard wrote that "if these extraordinary Custom house officers, whose Service as it is new, is the more invidious, do not appear to have the public support of the Crown in what they do," a conspiracy

et seq.; John Adams, Writings III, p. 464; Samuel Adams, Writings I, p. 149; A. L. Cross, The Anglican Episcopate and the American Colonies, pp. 145, 146 and *passim*. The reform movement also manifested itself in other directions. In 1729 Parliament provided that sailors in the colonies should contribute to the support of Greenwich Hospital in the same manner as did those in Great Britain. 2 Geo. II, c. 7. This law had not been executed, but a few years after the peace it was determined to make it effective. In 1768, Henry Hulton was appointed "Principal Deputy Receiver" of these dues for America, while in the various colonial ports, subordinate receivers were appointed. Though the fishermen of Salem and Marblehead refused to submit to the law, Hulton's account shows that from July 5 to Oct. 10, 1768, £396 net was collected from New London, Rhode Island, Salem, Marblehead, Philadelphia, and the Southern Potomac district. Considerable opposition was encountered. Thus, in 1768, Hulton wrote: "Great Clamours have arisen against me for the measures I am taking for a more exact Collection of the Duty." See despatches of Henry Hulton, June 29, Sept. 11, Oct. 1, Oct. 10, 1768, in Admiralty, Greenwich Hospital, Misc. Various, 131. Another matter which still continued to create friction was the reservation of mast trees in the colonies for the use of the royal navy. This policy was predominantly military in nature, and was adopted in consequence of the difficulty of procuring large masts, and in view also of the desirability, mainly from the standpoint of national security, of not being dependent upon the Baltic countries for anything that was indispensable to the development of British naval strength. The system was in many respects defective, and was but inadequately carried into effect. (B. T. Plant. Gen. 44, pp. 147–156; Pownall, *op. cit.* pp. 196–198.) In 1758 Wentworth wrote that there was

or combination against them will be formed, similar to that in Massachusetts during the war.[1] Oxenbridge Thacher, one of the leading American controversial writers, gave voice to this dissatisfaction, and likewise complained of the exceptional powers granted to the custom-house officials.[2] The creation of a vice-admiralty court for all America, acting without juries, in especial aroused discontent.[3] It was urged that the individual was inadequately protected, as the vice-admiralty judges not only decided both on the law and on the facts, but also had a pecuniary interest in securing condemnations, since they were entitled to a small percentage thereof. Besides, under the new system a seizure could be

"a General Combination among the people to destroy the King's timber." (B. T. New Hampshire 4 C 4; B. T. Plant. Gen. 49.) The officers trying to execute the law were frequently sued for trespass, and many other difficulties were encountered. (B. T. New Hampshire 4 C 14; *Ibid.* 5 D 10; Wentworth to Halifax, Oct. 20, 1763, in Am. and W.I. 161.) This opposition was, however, to a great extent confined to the directly interested localities, and was not supported by the governments of New England. Thus, in 1760, the agent of Connecticut, Jared Ingersoll, represented to the Board of Trade the expediency of having a court of admiralty established in Connecticut for the more effectual prosecution of the laws made for preserving the woods. (B. T. Journals 68, p. 176.) It should also be noted that the necessity of this general policy, as far as New England was concerned, was to a great extent removed by the conquest of Canada, where there was an abundance of mast trees.

[1] B. T. Mass. 78 Ll 73. See also Bernard to Jackson, Nov. 26, 1763, in Quincy, *op. cit.* p. 431, and Lord Colville to Philip Stephens, Halifax, Jan. 22, 1764, with enclosures, in Adm. Sec. In-Letters, Bundle 482.

[2] The Sentiments of a British American (Boston, 1764), p. 10. *Cf.* also Stephen Hopkins, *op. cit.* p. 15.

[3] Instructions from Braintree to their representatives in 1765. John Adams, Writings III, pp. 465, *et seq.* See also John Dickinson, Writings I, pp. 175, 184.

removed for trial from any colony to Halifax, thus putting the possibly innocent owner to great expense and loss.[1] These complaints had unquestionably some justification, because the system was liable to abuse. It was not, however, intended to abuse it, and it is not clear that any of the evils inherent in it actually took effect. For, as Moses Coit Tyler has well said, the colonies "made their stand, not against tyranny inflicted, but only against tyranny anticipated." [2]

These exceptional powers were granted because otherwise the laws could not be executed. As an eminent Rhode Island lawyer, Martin Howard, said at the time,[3] "if, my friend, customs are due to the crown; if illicit commerce is to be put an end to, as ruinous to the welfare: — If, by reason of the interested views of traders, and the connivance of courts and custom-house officers, these ends could not be compassed or obtained in the common and ordinary way; tell me, what could the government do, but to apply a remedy desperate as the disease: There is, I own, a severity in the method of prosecution, in the new established court of admiralty, under Doctor SPRY, here; but it is a severity we have brought upon ourselves. When every mild expedient, to stop the atrocious and infamous practice of smuggling, has been try'd in vain, the government is justifiable in making laws against it." It was only by means of such extraor-

[1] Oxenbridge Thacher, *op. cit.* pp. 7–9; James Otis, The Rights of the British Colonists, p. 53; Stephen Hopkins, *op. cit.* pp. 9, 14, 15.

[2] Literary History of the Am. Rev. I, p. 8.

[3] A Letter from a Gentleman at Halifax (Newport, 1765), in A. B. Hart, Am. Hist. told by Contemporaries II, pp. 396, 397.

dinary expedients that the British government could at all execute the existing laws, and carry out its policy. The very animosity that Howard's pamphlet aroused in Rhode Island — he met with personal violence at the hands of the mob [1] — shows to what extent anarchic conditions had crept into the imperial system, and how impossible it was to enforce the law without resorting to exceptional measures.

The purpose of these measures was to make effective the laws of trade, and more especially the revenue acts of 1764 and 1765. The stricter enforcement of the old colonial system aroused some opposition. This resulted mainly from the fact that the custom of allowing wines and fruits to be imported directly into the colonies from Spain and Portugal was no longer countenanced.[2] It was, however, the execution of the Molasses Act, which was not an integral part

[1] Cal. Home Office Papers, 1760–1765, p. 609, no. 1959; Brit. Mus. Addit. MSS. 33030 (Newcastle Papers CCCXLV, folios 76 *et seq.*).

[2] Thus it was said in 1765: "I believe the Stamp Act would not have met with so violent an opposition, had not the Colonists in general, previous to that, been greatly chagrined at the rigorous execution of the laws of trade." The New York "New Gazette or The Weekly Post-Boy" no. 1207 for Feb. 20, 1766, in Adm. Sec. In-Letters 3819. In the expression "laws of trade" is evidently included the "Molasses Act" of 1733 and the "Sugar Act" of 1764. In general, the contemporary American writers did not complain of the stricter enforcement of the law, except in so far as it involved the payment of duties on foreign West Indian products, and the stoppage of the direct importation of wines and fruits from Spain and Portugal. In 1764 it was claimed that the colonies could not import Spanish and Portuguese fruits *via* Great Britain, as they were perishable, and that while these articles in themselves were "of little consequence," still they were profitable and encouraged the colonial fisheries. An Essay on the Trade of the Northern Colonies (London, 1764), pp. 10, 23. For a similar complaint in 1767, made by the Massachusetts agent, de Berdt, see Papers relating to Public Events in

of the colonial system proper, that aroused the chief dissatisfaction. In 1764 Governor Franklin informed the Board of Trade that, as a result of the enforcement of this law, there were "great Murmerings among the Merchants, and others, in North America." [1] The discontent sprang chiefly from the duty on foreign molasses, which, though cut in two in 1764, was still considered burdensome.[2]

Molasses was imported in large quantities by the Northern colonies, and formed the basis of a considerable part of their commercial life. The British West Indies could not furnish an adequate supply, nor could they consume the entire surplus quantity of food-stuffs, fish, and lumber, produced by the continental colonies. Consequently the trade to the foreign West Indies was absolutely essential to the prosperity of the North American colonies. Furthermore, it was this trade that in part enabled these colonies to pay for the British manufactures that they consumed. In 1764, Colden correctly asserted that it was "evident to a demonstration that the more Trade the Colonies in North America have with the Foreign Colo-

Massachusetts (Phila., 1856), pp. 44 *et seq.* As already pointed out, this trade was not in itself important, and subsequent to the stricter enforcement of the law, the colonies imported these products *via* the Madeiras. Ibbetson to Board of Trade, 1765, in B. T. Com. Series II, 579.

[1] N.J. Col. Doc. IX, pp. 402–404. *Cf.* "New-York Mercury" no. 639 for Jan. 23, 1764.

[2] As already mentioned, Rhode Island officially pointed out the comparative unimportance of the duties on foreign sugar. *Cf.* also Samuel Adams, Writings I, pp. 31, 32, 62. In 1767, however, Massachusetts, through its agent de Berdt, complained about the sugar duties. Papers relating to Public Events in Massachusetts, pp. 44, 45.

nies, the more they consume of the British Manufactures." [1] Similarly, in 1766, it was claimed, and to a great extent with justice, that "a free Trade with the foreign West-India Islands, is of far more consequence to North America than any other Considerations." [2] These arguments were advanced by all the colonial writers, and to an overwhelming extent, constituted the chief burden of the complaint against the act of 1764.[3] But the economic grievance, though by no means insignificant, should not be overestimated. Although opposed to the policy of which this act was an expression, Pownall claimed that a revenue could be collected if a moderate duty of twopence a gallon were imposed on molasses; that the three-penny duty of the act of 1764 was not in any way destructive; and that the "clamour" against it was "groundless." [4]

[1] N.Y. Col. Doc. VII, p. 612.

[2] The New York "New Gazette" No. 1207 for Feb. 20, 1766, in Adm. Sec. In-Letters 3819. *Cf.* also Dartmouth MSS. (Hist. MSS. Com. XI, 5) p. 331; Quincy, *op. cit.* p. 445.

[3] Oxenbridge Thacher, *op. cit.* p. 14, 15; James Otis, *op. cit.* pp. 76, 77; John Dickinson, Writings I, pp. 223, 226; Stephen Hopkins, *op. cit.* pp. 12–14; Dartmouth MSS. (Hist. MSS. Com. XI, 5) p. 331; Franklin, Writings IV, pp. 243, 244; Pownall, *op. cit.* pp. 5, 6; An Essay on the Trade of the Northern Colonies, pp. 4–21; "A Few Thoughts on the Method of improving and securing the Advantages which accrue to Great Britain from the Northern Colonies," printed in "New-York Mercury," no. 671 for Aug. 27, 1764. See also the same paper for Jan. 23, 1764. The best exposition of the case of the colonies is the official petition of Rhode Island. B.T. Prop. 21 X 57. Herein it was pointed out that molasses formed the basis of Rhode Island's commerce, and that 14,000 hhds. thereof were annually imported, of which only 2500 came from the British colonies.

[4] Pownall, *op. cit.* pp. 192–195. Rhode Island and Massachusetts were especially affected by this duty. The former colony imported 1,150,000

This law was only in part designed to injure French commerce by giving British West Indian products preferential treatment in the markets of North America. In addition, its purpose was to create a colonial revenue, and with this object in view, it imposed a number of duties besides those on foreign West Indian products. This was the first act whose main purpose was to tax the colonies, and as such, it aroused some opposition;[1] but from the fact that it closely resembled in its outward form several existing laws, whose validity had not been seriously questioned, it was difficult to assail it on this ground.[2]

The discontent of the colonies at the legislation of 1764 burst into a flame on the passage of the Stamp Act of 1765. So universal and so violent was the opposition, that it was found absolutely impossible to execute the law.[3]

gallons of molasses yearly, on which the duty would have been £14,375. Hopkins, *op. cit.* pp. 12, 13.

[1] Thacher (*op. cit.* pp. 5, 7) attacked it on the ground that a tax was laid "without the consent of the representatives of the colonists." *Cf.* also Va. Mag. XII, pp. 6–9; "New-York Mercury," no. 671 for Aug. 27, 1764; Votes and Proceedings of the House of Representatives of Pennsylvania (Phila. 1775) V, pp. 355, 356; Samuel Adams, Writings I, p. 5.

[2] Va. Mag. XII, p. 10. James Otis (*op. cit.* pp. 42, 43), however, pointed out that if Parliament could lay taxes on trade, it could also levy internal taxes. "There is no foundation," he said, "for the distinction some make in England between an internal and an external tax on the colonies." John Dickinson, on the other hand, said: "We should willingly pay a moderate duty upon importations from the *French* and *Spaniards* without attempting to run them." Dickinson, Writings I, p. 224.

[3] Parl. Hist. 16, pp. 111–136; Am. and W.I. 388, 586. Brit. Mus. Addit. MSS. 22679; Same 35911 (Hardwicke Papers DLXIII); Same 33030 (Newcastle Papers CCCXLV, folios 50 *et seq.*). This opposition extended to a number of the insular colonies. B. T. Bermudas 20 P 108; Adm.

This opposition in part was due to the tax itself,[1] and in part resulted from its imposition by Parliament. As already pointed out, the legislation of 1764 and 1765 was designed to produce a colonial revenue of from £105,000 to £145,000. Apparently this was a very small sum, but in reality it was a very large one from the colonial viewpoint. The legislation of the provincial assemblies was exceedingly limited in scope, and consequently the colonists were not accustomed to paying heavy taxes. As Loudoun said in 1757, "the Taxes which the People pay in this Country, are really so trifling, that they do not deserve the Name." [2] Pownall likewise pointed out, that while a low tax in North America would produce £99,000, this sum was, in fact, more than the colonies themselves actually levied. "The whole charge of the ordinary expence of government in the province of Massachusetts'-Bay, which does, by much more to the support of government, and other public services than any other province, is, in time of peace, sterling 12,937*l.* 10*s.* whereas that of New-York, is not more than about sterling, 4000*l.* annually." [3] The Board of Trade at this time also prepared

Sec. In-Letters 3819; Dartmouth MSS. (Hist. MSS. Com. 14, X) p. 495. Governor Pinfold wrote that Barbados had obeyed the law despite the fact that "their North American correspondents have spared neither Threats, or Entreaties to persuade us to imitate their outragious and Rebellious Conduct." B. T. Barbados 36 Ff 68.

[1] John Adams, Writings III, p. 465; John Dickinson, Writings I, pp. 229–233; Dulany, Considerations on the Propriety of Imposing Taxes (2d ed. Annapolis, 1765), pp. 24, 25; Va. Mag. XII, p. 9; James Otis, Considerations, etc., p. 20.

[2] Pitt Correspondence I, p. 44.

[3] Pownall, *op. cit.* pp. 98–100.

an account of the colonial civil establishments, according to which the continental colonies paid annually for these purposes about £60,000, and the West Indies approximately the same sum [1] Though these accounts are not accurate or complete, and though they omit all consideration of the local taxes paid in the colonies, yet they show in an unmistakable manner that the parliamentary taxes of 1764 and 1765 would have greatly increased the normal burden of taxation in the colonies,[2] — but by no means, however, to a degree incommensurate with their wealth.

In addition, the colonies complained of the method by which the tax was imposed. Thus Washington wrote that the colonists looked "upon this unconstitutional method of taxation as a direful attack upon their liberties." [3] In general they claimed that it was a fundamental principle of the British constitution that the subject could be taxed only by his rep-

[1] Am. and W.I. 387, folio 121.

[2] It was also complained that these taxes would cause an outflow of money to Great Britain. *Cf.* Hopkins, *op. cit.* p. 23. It is obvious, however, that the establishment of a standing army in America, of which a large proportion of the cost was to be paid by the mother country, would have a diametrically opposite effect. Furthermore, provision was made that the money arising from the Stamp taxes should not be remitted to Great Britain. Sharpe Correspondence III, pp. 286, 287. The above accounts do not include the extraordinary taxes levied by the colonies to extinguish their own war debts. In 1766 it was contended in England that the ability of the colonies to pay these parliamentary taxes was amply proven by the fact that of this debt £1,750,000 had been paid in three years, and that the bulk of the balance, £760,000, would be paid in two years more. *Ibid.* III, p. 287. *Cf.* Almon, Biographical Anecdotes II, pp. 93, 94.

[3] Washington, Works (ed. Ford) II, p. 209. *Cf.* Samuel Adams, Writings I, p. 9.

resentatives.[1] Any other system, according to such colonial publicists as Stephen Hopkins [2] and James Otis,[3] was tantamount to slavery.

The doctrine of "no taxation without representation" is one of those vague political principles, which can neither be subjected to scientific analysis, nor carried to their logical conclusion, but which are possibly all the more implicitly believed in because their meaning cannot be explicitly expounded. Both parties held firmly to this doctrine, but each interpreted it differently. According to the British view, the colonies were virtually represented in Parliament, and there was a valid basis for this contention in the historically illogical system of representation prevailing in the mother country. The colonists, accustomed to a more symmetrical practice, rejected this claim,[4] and contended that only if their representatives sat

[1] John Dickinson, Writings I, pp. 175, 184; Daniel Dulany, *op. cit.* p. 8. In 1764 the Virginia Committee of Correspondence said that "the most vital Principle of the British Constitution" was that no subject could be made subservient to laws without his consent or that of his representatives. Va. Mag. XII, p. 10.

[2] Those "whose property may be taken from them by taxes, or otherwise, without their own consent, and against their will, are in the miserable condition of slaves." Hopkins, *op. cit.* p. 4. *Cf.* also James Otis, Considerations on Behalf of the Colonists (2d ed. London, 1765), p. 11; Votes and Proceedings (Phila. 1775) V, p. 376.

[3] Otis said that Parliamentary taxation was "absolutely irreconcileable with the rights of the Colonists, as British subjects, and as men. I say men, for in a state of nature, no man can take my property from me, without my consent: If he does, he deprives me of my liberty, and makes me a slave." Otis, The Rights, etc., p. 38.

[4] Dulany, *op. cit.* pp. 6 *et seq.;* Samuel Adams, Writings I, p. 30.

at Westminster would this principle remain inviolate.[1] In addition, the colonies feared that this colonial revenue would be used to pay the salaries of the colonial governors, thus destroying the great influence of the provincial legislatures.[2] This, however, did not form a part of Grenville's policy, and the misunderstanding was one of many, which in that age of poor communications made harmonious relations between mother country and colony virtually impossible.

Owing to the intense opposition of the colonies, the Stamp Act was repealed in 1766.[3] The British merchants were to a great extent united in urging this step, fearing not only the loss of the American market,[4] but also the non-payment of the very large amounts that the colonies owed them.[5] But in addition, Grenville was no longer in office, and his

[1] There was also considerable opposition to the Stamp Act on account of the fact that all cases arising under it were to be tried in the admiralty courts. Samuel Adams, Writings I, p. 46.

[2] Colden said that this was the chief reason for the opposition to the Stamp taxes. N.Y. Col. Doc. VII, p. 797.

[3] 6 Geo. III, c. 11.

[4] Colden ridiculed the idea that the colonies would be able to do without British woollens, and asserted that the New York non-importation agreement was designed solely to influence English opinion. N.Y. Col. Doc. VII, pp. 799, 800. Similarly James Otis said: "However I can never hear American manufactures seriously talked of, without being disposed to a violent fit of laughter. My contempt is inexpressible, when I perceive statesmen at home amusing the mob they affect to despise, with the imminent danger, from American manufactories." Considerations on Behalf of the Colonists (2d ed. London, 1765), p. 23.

[5] Parl. Hist. 16, pp. 133 *et seq.* See also Brit. Mus. Addit. MSS. 33030 (Newcastle Papers CCXLV). In a letter addressed to William Burke, dated Dec. 14, 1765, it was stated that "some thousands of industrious artificers, are suffering in this neighbourhood for the want of remittances from America and from the fear of sending goods there." Cal. Home Office Papers, 1760–

successor, Rockingham, was averse to using the coercive measures that were indispensable if the law was to be enforced. This Ministry also took under consideration the complaints against the "Sugar Act" of 1764,[1] and modified it to meet the wishes of the colonies. The opposition had been aroused mainly by the duty on foreign molasses. This was repealed in 1766, and in its place a very low duty of one penny a gallon was imposed on all molasses, whether British or foreign, imported into the colonies.[2] At the same time, other changes were also made,[3] but this was by far the most important. This statute removed the chief economic objec-

1765, p. 638, no. 2064. According to Walpole, "the weapon with which the Colonies armed themselves to most advantage, was the refusal of paying the debts they owed to our merchants at home, for goods and wares exported to the American provinces. These debts involved the merchants of London, Liverpool, Manchester, and other great trading towns, in a common cause with the Americans, who forswore all traffic with us, unless the obnoxious Stamp Act was repealed." Memoirs Geo. III, vol. II, p. 153. According to the general estimate, these debts amounted to the large sum of four million sterling. Daniel Dulany, *op. cit.* p. 22; "New-York Mercury," no. 636 for Jan. 2, 1764; Dickinson, Writings I, p. 217. Apparently this was even an underestimate. For details, see Brit. Mus. Addit. MSS. (Newcastle Papers CCCXLV, folios 104, 204).

[1] Sharpe Correspondence III, pp. 296, 297. The London merchants were also instrumental in having the duty on molasses lowered. Corr. of Col. Gov. of Rhode Island II, p. 361. For details as to the reasons of the various changes made in 1766, see Brit. Mus. Addit. MSS. 33030 (Newcastle Papers CCCXLV, folios 243 *et seq.*).

[2] 6 Geo. III, c. 52, §§ i, iv.

[3] The duties on foreign sugar were retained, but the cost of British sugars to the continental colonies was reduced by removing the export duties of 1673, amounting to 1*s.* 6*d.* a hundredweight on brown and muscovado, and 5*s.* a hundredweight on white sugar. The export duties imposed in 1764 on British colonial pimento and coffee were repealed, but low duties were imposed

tions to the revenue act of 1764. Thus the Rhode Island agent, Joseph Sherwood, wrote to Governor Ward: "Every Grievance of which you Complained is now Absolutely and totally removed, a joyfull and a happy Event for the late Disconsolate Inhabitants of America." [1]

The repeal of the Stamp Act and the abolition of the objectionable duty on molasses seemed to restore harmonious relations.[2] The calm was, however, only superficial. The controversies of these two years had raised some fundamental questions, on which there could be little hope of mutual agreement. The imperial administrative system had been successfully defied, and in especial the authority of the colonial customs officials had been completely undermined. Furthermore, the main principles of Grenville's policy had not been discarded by the British government.

The presence of a large standing force in the colonies necessitated the extension of the Mutiny Act to America,[3] and though this statute was modified to suit colonial conditions,[4] it aroused considerable opposition, especially in New York.[5] Besides, the plan of creating a colonial revenue had

on their importation into the British colonies. Then the import duties on East Indian and French textiles were abolished, and instead foreign cambrics and French lawns had to pay export duties when shipped from Great Britain to the colonies. There were also a number of other regulations in this comprehensive statute.

[1] Corr. of Col. Gov. of Rhode Island II, p. 384.

[2] John Adams, Writings II, pp. 223, 224.

[3] 5 Geo. III, c. 33.

[4] Cal. Home Office Papers 1760–1765, pp. 529, 534; Corr. of Col. Gov. of Rhode Island II, p. 562; Grenville Papers III, pp. 11–15.

[5] *Cf.* Samuel Adams, Writings I, p. 110. It was in connection with these

not been abandoned,[1] and there still remained in force a number of colonial customs-duties imposed by Parliament. At first the colonies were not united in opposing such indirect taxes. Franklin admitted that Parliament might have "a natural and equitable right" to levy them.[2] But colonial opinion was rapidly advancing, and the opposition to the Stamp Act extended to these indirect taxes as well. Whately, the Secretary of the Treasury, informed Grenville that "the rage of the people seems not to be confined to the Stamp Act; the Officers of the Customs are also the object of it, and if that should be avowed, then the clear point is, whether the Parliament has a right to impose any taxes at all there." [3] In 1764, the Rhode Island legislature forbade the governor to administer the oaths to the British customs officials, and thus prevented the laws from being executed.[4] As

troubles that Chatham, on Feb. 3, 1767, wrote to Shelburne: "America affords a gloomy prospect. A spirit of infatuation has taken possession of New York: their disobedience to the mutiny act will *justly* create a great ferment here, open a fair field to the arraigners of America, and leave no room to any to say a word in their defence." Chatham Correspondence III, p. 188.

[1] On Jan. 27, 1767, Grenville wrote to the Earl of Buckinghamshire: "Yesterday and to-day we have had some debates in the House of Commons on the estimates for the American troops, and the enormous expense attending them, amounting in the whole to above £400,000, or near a shilling in the pound on the land. This I proposed should be all defrayed by America and the West Indies, after having reduced it near one half by striking off the unnecessary articles. Mr. Townshend in answer to this, though he refused to consent to it, yet held a very strong language that America ought to pay that expense." Lothian MSS. (Hist. MSS. Com. 1905) p. 275. *Cf.* Chatham Correspondence III, p. 178.

[2] Parl. Hist. 16, p. 149. [3] Grenville Papers III, p. 100.

[4] Bernard to Halifax, Dec. 14, 1764. Am. and W.I. 167. Halifax to the Governor of Rhode Island, June 9, 1764. *Ibid.* 197.

a result, in 1765, these officials in Rhode Island came to the conclusion that the custom-house could not be carried on.[1] In 1765, one of the collectors in Maryland complained of an assault made on him while he was executing his duties, which necessitated his being always fully armed.[2] Similarly in Massachusetts, these officials did not dare to execute the laws.[3] The Stamp Act riots had completely undermined their authority, and had rendered the imperial administrative system absolutely ineffective.

In addition to collecting the duties imposed by the acts of 1673, 1733, 1764, and 1766, it was also the duty of these officials to enforce the laws of trade. Prior to 1763 the general attitude of the colonies toward the old colonial system had been one of acquiescence. The controversies over the acts of 1764 and 1765, however, brought the laws of trade into the political arena, and led to an examination of their validity. Thus, as late as 1764, James Otis said that the French "can send none of their manufactures here; and it is the wish of every honest British American that they never may; 'tis best they never should; we can do better without the manufactures of Europe, save those of Great-Britain, than with them." [4] Similar statements were made by other

[1] Cal. Home Office Papers, 1760–1765, p. 610. See also Corr. of Col. Gov. of Rhode Island II, 376–381.

[2] Col. Home Office Papers, 1760–1765, p. 552, no. 1748.

[3] Quincy, *op. cit.* p. 445. Hutchinson to Pownall, May 11, 1766.

[4] James Otis, The Rights, etc., p. 76. In another passage he says: "A prodigious revenue arises to the Crown on American exports to Great-Britain, which in general is not murmured at: No Manufacture of Europe besides British, can be lawfully bro't here; and no honest man desires they ever should, if the laws were put in execution upon all." *Ibid.* p. 58.

colonial writers also at this time.[1] In the following year, however, Otis proceeded to question the justice of the system as a whole. "Can any one tell me," he asked, "why trade, commerce, arts, sciences, and manufactures, should not be as free for an American as for a European?" Though ridiculing the idea that the colonies could supply themselves with manufactures, he said: "Is there anything in the laws of nature and nations, anything in the nature of our allegiance that forbids a colonist to push the manufacture of iron much beyond the making of a horse-shoe or a hob nail?" Nothing, he added, could prove to him "the rectitude" of the entire system of regulating colonial trade.[2] Similarly, a Virginian, Richard Bland, claimed that "these acts, which imposed severer restrictions upon the trade of the colonies, than were imposed upon the trade of *England*, deprived the colonies, so far as these restrictions extended, of the privileges of *English* subjects, and constituted an unnatural difference between men under the same allegiance, born equally free, and entitled to the same civil rights." [3]

[1] In 1764 such a writer said "that whatever business or commerce in any of the Northern Colonies interferes with, or is in any way detrimental to the true interest, manufactories, trade, or commerce of Great Britain, we reasonably expect will be totally prohibited." An Essay on the Trade of the Northern Colonies of Great Britain in North-America (London, 1764) p. 9. Similarly, in 1765, after a very partisan analysis of the colonial system, John Dickinson said: "However under all these restraints and some others that have been imposed on us we have not till lately been unhappy." Dickinson, Writings I, p. 217.

[2] Otis, Considerations, etc., pp. 22–23. *Cf.* also p. 38.

[3] Richard Bland, An Enquiry into the Rights of the British Colonies (London, 1769), p. 18. Bland referred especially to the act of 1673, which had imposed duties on intercolonial trade.

This change in attitude toward the old colonial system was only partially based on economic grounds. The new drawback system and the stricter enforcement of the laws had a tendency to increase the cost of European and Asiatic goods to the colonial consumer. This was clearly recognized for instance by James Otis in 1764, yet at the time he asserted that the system was favored by "every honest British American." [1] Dickinson went further and claimed that as a result of the system the mother country was expensive to the colonies, and not they to Great Britain.[2] Though grossly exaggerating the injurious effects of the laws on the colonies, Dulany did not deny the mother country's right in the premises.[3] These statements, that the system worked to the disadvantage of the colonies, were in part made in order

[1] Otis (The Rights, etc., p. 76) asserted that the French could undersell British manufactures. It should be noted that France was also afraid of Great Britain supplying her colonies. Thus, in 1763, Admiral Rodney wrote to Grenville that the French alleged that the English possession of Dominica was dangerous to them, as a clandestine trade would be carried on thence to Martinique and Guadeloupe, "supplying them with India goods, Negroes, and provisions at a much cheaper rate than the Dutch from Eustatia," — Dominica being much nearer. Grenville Papers II, p. 25.

[2] Dickinson (Writings I, pp. 238, 239) asserted that as a result of the system, the colonies paid more for their manufactures, and obtained less for their enumerated products than under unrestricted conditions, and that the difference was virtually a tax on them. He claimed likewise that the laws regulating colonial manufactures were in ultimate analysis equivalent to a tax.

[3] Daniel Dulany, *op. cit.* pp. 26, 27, 34, 37. In another passage he said: "It is not contended that the Colonies ought to be indulged in a general Liberty of Exporting and Importing every Thing in what Manner they please," but "they have a good Plea against all Rigour and Severity." *Ibid.* p. 43. In the appendix, Dulany discussed in detail the effects of the old colonial system, saying "a Law which restrains one Part of the Society, from exporting it's products

to answer the British contention that the colonies contributed nothing to the cost of imperial defence.[1] But in part also the attack on the colonial system resulted from the fact that the laws of trade were a potent historical argument in favor of the validity of Parliament's authority, which the colonies were beginning to question.

The laws of trade, however, figured prominently only in the controversies of 1764 and 1765. After the repeal of the objectionable molasses duty in 1766, they were scarcely at all mentioned in the subsequent revolutionary controversies. There were at times complaints[2] against some features of the system, but the general attitude of the colonies

to the most profitable Market, *in favour of another;* or obliges it to *import* the Manufactures of one Country that are dear, instead of those of another that are cheap, is effectually a Tax." Dulany then proceeded in a totally unscientific and arbitrary manner to estimate the amount of this tax. The resulting absurdly exaggerated amount is all the more significant, because he admitted the right of the mother country so to regulate colonial trade. *Ibid.* pp. 49–55.

[1] Samuel Adams, Writings I, pp. 42, 43. Richard Bland (An Enquiry, p. 19) said that if Parliament could impose all kinds of taxes on the colonies, then they ought to have the same freedom of commerce as Great Britain in order to be enabled to pay such taxes.

[2] In 1767 Washington wrote: "I could wish it was in my power to congratulate you on the success in having the commercial system of these colonies put upon a more enlarged and extensive footing, than it is." Washington, Writings II, pp. 210, 211. See also Dennys de Berdt's memorial of 1767 in Papers Relating to Public Events in Massachusetts (Philadelphia, 1856), pp. 44 *et seq.* It should be noted that the system was made considerably more restrictive in 1766, when it was provided that even non-enumerated colonial products could not be shipped directly to any foreign port in Europe, excepting those south of Cape Finisterre and the Spanish ports in the Bay of Biscay. 6 Geo. III, c. 52, §§ xxx, xxxi. Such colonial products could be shipped direct to Ireland. 7 Geo. III, c. 2.

is well represented by John Adams, who in 1774 in his "Novanglus," said: "Great Britain has confined all our trade to herself. We are willing she should, so far as it can be for the good of the empire." [1] It is also not without some significance that the comprehensive indictment of Great Britain embodied in the Declaration of Independence contains, if any, only a passing allusion to the commercial system.[2]

The chief effect of the controversies of 1764 and 1765 was to bring the authority of Parliament into dispute. Colonial opinion developed slowly, and only gradually reached the position that the provincial legislatures were "the only

[1] The passage continues: "But we say that we ought to be allowed as credit, in the account of public burdens and expenses, so much, paid in taxes, as we are obliged to sell our commodities to her cheaper than we could get for them at foreign markets. The difference is really a tax upon us for the good of the empire. We are obliged to take from Great Britain commodities that we could purchase cheaper elsewhere. This difference is a tax upon us for the good of the empire. We submit to this cheerfully; but insist that we ought to have credit for it in the account of the expenses of the empire, because it is really a tax upon us." Later in the same work Adams said: "We have, by our own express consent, contracted to observe the Navigation Act, and by our implied consent, by long usage and uninterrupted acquiescence, have submitted to the other acts of trade, however grievous some of them may be." Adams, Writings IV, pp. 46, 113, 114. Six years after this date, when Adams was in Amsterdam seeking aid for the seceding colonies, he naturally laid stress on the commercial benefits that would accrue to the Dutch from the future independence of the United States, and consequently said that the Americans "universally aspire after a free trade with all the commercial world, instead of that mean monopoly, in which they were shackled by Great Britain, to the disgrace and mortification of America, and to the injury of all the rest of Europe." *Ibid.* VII, p. 269.

[2] George III is accused of assenting to laws "for cutting off our Trade with all Parts of the World." This vague statement seemingly refers specifically to the Boston Port Bill, and not to the colonial system as a whole.

supreme authorities" in the colonies.[1] This conclusion was a logical result of the endeavor of the colonies to set some limits upon Parliamentary supremacy. Prior to 1763, Parliament had passed a large number of laws affecting the colonies; the bulk of these statutes regulated the external trade of the colonies, but some directly affected their internal life. Such, among others, were the acts regulating colonial currency and manufactures, and that establishing an American post-office. In the eyes of the colonies it was, however, a long stride from such measures to one taxing the internal trade of the colonies.[2] Pitt, illogically and unscientifically, maintained that Parliament's absolute legislative authority over the colonies did not include the power of taxation, but from the colonial viewpoint this power and that of legislation were virtually synonymous. The chief function exercised by the provincial assemblies was the levying of taxes, and if this power were concurrently exercised by the imperial legislature, the very foundation of colonial self-government would in their eyes be undermined. The extent to which this power would be exercised by Parliament could neither be foreseen nor controlled. Thus it was only in 1764 and 1765 that the colonies fully realized what was implied by the sovereignty of Parliament; and they groped in the

[1] "Novanglus" in John Adams, Writings IV, p. 105. Already in 1765, Colden wrote to Secretary Conway that when it became known that the Stamp Act would be passed, a number of articles were published attacking it. At first they denied only the right of Parliament to lay internal taxes, but ultimately they denied the legislative authority of Parliament in the colonies. N.Y. Col. Doc. VII, p. 759.

[2] Va. Mag. XII, p. 9.

dark for some means of checking the legal omnipotence of that legislative body. This attitude is well represented by the Virginia Committee of Correspondence, which in 1764 wrote to the colonial agent in London: "It may, perhaps, be thought presumptious in us to attempt or even to desire any Thing which may look like a restraint upon the controlling Power of Parliament; We only wish that our just Liberties & Privileges as free born British Subjects were once properly defin'd." [1]

Thus the policy of Grenville led directly to a searching inquiry into the nature of the imperial constitution.[2] Colonial opinion was at the outset not clearly defined. It was, however, patent that parliamentary supremacy could be used as a powerful check on the tendency toward independence that had already, to a marked degree, manifested itself. This tendency is plainly visible in the facts of colonial history. But the colonists were, to a great extent, unconscious thereof, and, as a rule, asserted their loyalty to the mother country.[3] Such assertions are, however, no proof of the existence of this sentiment.[4] As in many other historical

[1] Va. Mag. XII, p. 9. The Committee added: "We doubt not that the Wisdom of a British parliament will lead them to distinguish between a Power and Right to do any act."

[2] It was partly in order to vindicate its authority that Parliament passed the Stamp Act. In 1765 Benjamin Franklin wrote that he had done his utmost to prevent the passage of this measure, "but the Tide was too strong against us. The nation was provoked by American Claims of Independence, and all Parties joined in resolving by this act to settle the point. We might as well have hindered the sun's setting." Franklin, Writings IV, p. 390.

[3] *Cf.* Samuel Adams, Writings I, p. 38.

[4] Pownall said that the colonies were "zealously loyal." His experience

movements, the real motive was obscured because its revolutionary character would have injured the cause. The expression by the colonies of a desire for independence would inevitably have put on them the burden of proof, would have united all parties in Great Britain against them, and would have alienated many supporters in America. Hence the colonies to a great extent ignored the underlying cause of their actions, and in all sincerity expressed a loyalty, which in reality they did not feel. For if in loyalty there is implied any idea of sacrifice, then this sentiment was to a marked degree absent in the colonies. Their allegiance was purely utilitarian, and its fundamental basis had disappeared with the conquest of Canada. There was a substantial foundation of truth in the query of Soame Jenyns, who, as member of the Board of Trade,[1] had full opportunity of knowing the colonies well. "Are they only *Englishmen*," he asked in 1765, "when they sollicit for Protection, but not Englishmen when taxes are required to enable this Country to protect them?" [2] It was this unconscious desire for complete self-government, which could be realized only by political independence, that explains the intensity of the opposition aroused by Grenville's policy. As Osgood has said: "In this last idea, that of national independence, lies the secret spring of the revolt." [3]

was, however, largely confined to Massachusetts, which during his governorship had shown great activity in prosecuting the war.

[1] Cal. Home Office Papers, 1760–1765, pp. 119, 237, 360, 672.

[2] Soame Jenyns, *op. cit.* p. 9.

[3] H. L. Osgood, England and the Colonies, Pol. Sci. Quart. II, p. 441. In addition, Osgood says, "there was nothing that can be called tyrannical or

The theory of the imperial constitution that ultimately prevailed in the colonies was that they were united to Great Britain solely through the Crown.[1] Such expressions of opinion were not infrequent even at the outset of the revolutionary controversies. In 1764 it was reported that the Governor of Rhode Island had publicly said "that the parliament of Great Britain had no more right to make laws for them than they had for the Mohawks." Bernard, in transmitting this information, added the comment that "these two Republicks (Rhode Island and Connecticut) then are the Allies of Great Britain & not the Subjects."[2] Stephen Hopkins, the governor referred to, claimed that "in an imperial state, which consists of many separate governments, each of which hath peculiar privileges, and of which kind it is evident the empire of Great-Britain is; no single part, though greater than another part, is by that superiority intituled to

unconstitutional in the plans of Grenville, Townshend, or Lord North. Severe measures were not resorted to till they were provoked by colonial resistance." *Ibid.* p. 467.

[1] At the present day Parliament is still the sovereign legislature for the entire British Empire. *Cf.* Bernard Holland, Imperium et Libertas, pp. 268, 269. This legal omnipotence is, however, largely theoretical and is so contradictory to the prevailing facts, that many have adopted the view advanced by the American colonies four generations ago. Thus Lord Rosebery recently spoke of Canada and Australia as being "united only to the mother country by the Crown." "London Times," weekly ed. XXXI, p. 199. Similarly, Herbert Paul speaks of the colonies as "united by the golden link of the Crown." History of Modern England V, p. 101.

[2] Bernard to Halifax, Dec. 14, 1764. Am. and W.I. 167. What Hopkins actually said was even stronger: "What have the King and Parliament to do with making a law or laws to govern us by, any more than the Mohawks have." R.I. Hist. Tracts, 9, p. xvi.

make laws for, or to tax such lesser part; but all laws, and all taxations, which bind the whole, must be made by the whole." He illustrated his conception of the British Empire by comparing it to the decentralized German system.[1] Likewise in 1765, a writer in a New York newspaper enquired: "Can any plausible Argument be urged for the supposed Subordination of the Colonies to *Great Britain*, but what has equal Force with regard to the Subordination of the Electorate of Hanover?"[2]

The British view of the constitutional nature of the Empire was well represented in the declaratory act that was passed by Parliament simultaneously with the repeal of the Stamp Act. According to it, Parliament "had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the colonies and people of America, subjects of the Crown of Great Britain, in all cases whatsoever."[3] From the legal standpoint, this view was unassailable. It was somewhat vulnerable from the historical standpoint, as Parliament had hitherto not exercised all its legal powers, notably that of taxation. It, however, totally failed to take into account that the

[1] Stephen Hopkins, *op. cit.* p. 19.

[2] "New York Gazette or Weekly Post-Boy," no. 1201 for Jan. 9, 1766, in Am. and W.I. Bundle 586. It is also not without significance that in 1764, the Board of Trade wrote to the Governor of New Jersey, in connection with an act of that colony appointing an "Agent for the Province at the Court of Great Britain," that it appeared to them "to be a ridiculous Affectation in the Assembly to cloath an Officer, who is merely an Attorney to transact their Affairs with a Character that belongs only to the Minister of a Foreign Prince." N.J. Col. Doc. IX, pp. 445, 446.

[3] 6 Geo. III, c. 12.

colonies were growing to political maturity, and that they resented the idea of subordination implied in the doctrine of parliamentary supremacy.[1]

As the British view could not be attacked on legal grounds, the colonies, in opposing the supremacy of Parliament, were to a great extent forced to rely on the then current doctrines of natural law, according to which certain rights are inherent in man.[2] Thus in 1764, James Otis admitted that the colonies were dependent on and subject to Great Britain, and that therefore over against the subordinate legislatures Parliament had the undoubted power and lawful authority to make acts for the general good. But he added that this authority was limited by the natural rights of the colonists as men.[3] These conflicting views were irreconcilable both in theory and in practice, and led ultimately to the disintegration of the Empire.

This essay covers but a short space of time, that embraced by the dates of 1754 and 1765. Yet these few years witnessed both a vast extension of the British Empire, and also the beginnings of an organized movement tending toward its disruption. The disintegrating forces were

[1] In 1765 John Adams wrote: "Is there not something extremely fallacious in the common-place images of the mother country and children colonies? Are we the children of Great Britain any more than the cities of London, Exeter, and Bath? Are we not brethren and fellow subjects with those in Britain, only under a somewhat different method of legislation, and a totally different method of taxation?" John Adams, Works III, p. 461.

[2] *Ibid.* III, pp. 449, 456, 457.

[3] Otis, The Rights, etc., pp. 32, 33, 38. *Cf.* also Otis, Considerations, etc., p. 36; Richard Bland, *op. cit.* p. 19.

present at the outset of the colonial movement, and were allowed full scope when the removal of the French danger severed the chief tie uniting the North American colonies to Great Britain. In the annals of the British Empire during this decade, the most vital fact was the conquest and subsequent retention of Canada. It made the American Revolution inevitable. The colonies had little or no imperial sentiment, and their aggressive individualism prevented the establishment of an efficient system of imperial administration. The same forces that delayed for one hundred years the creation of a national state out of the seceding colonies, brought about the disruption of the old British Empire. This result might not have followed had the British government, after 1763, been willing to relax still further the political ties, and to allow the colonies in bulk to assume the virtually complete powers of self-government that Rhode Island and Connecticut enjoyed. This was, however, impossible. There were a number of important questions, affecting the American colonies as a whole, which could not be handled satisfactorily by each province separately. These were primarily the system of military defence and the closely related Indian problem. As the colonies had shown absolutely no inclination whatsoever to join in a plan of union for such purposes, it became incumbent upon the imperial government to interfere. This necessitated a colonial revenue, unless the mother country were to assume the entire burden of defence, which would have been inequitable and would have aroused intense dissatisfaction in England.

The question of defence was predominant throughout the transitional years from 1754 to 1765, and gives a certain unity to the period. It is not often that one who has taken an active part in events is able to perceive their full significance. Benjamin Franklin was as a rule not such a man, yet in one instance at least he showed keen historical insight. In 1789 he said: "On Reflection it now seems probable, that if the foregoing Plan (that of the Albany Congress of 1754) or something like it had been adopted and carried into Execution, the subsequent Separation of the Colonies from the Mother Country might not so soon have happened, nor the Mischiefs suffered on both sides have occurred perhaps during another Century. For the Colonies, if so united, would have really been, as they then thought themselves, sufficient to their own Defence, and being trusted with it, as by the Plan, an Army from Britain, for that purpose would have been unnecessary; The Pretences for framing the Stamp Act would then not have existed, nor the other Projects for drawing a Revenue from America to Britain by Act of Parliament, which were the Causes of the Breach." [1] The controversies that led ultimately to the American Revolution, grew out of this military question, and in its narrower phase this movement was the direct result of the inherent difficulty of creating an efficient and equitable system of defence in a decentralized empire.

In its broader phase, the fundamental question at issue was the political independence of the American colonies.

[1] Franklin, Writings III, pp. 226, 227 n.

The struggle on the side of the colonies was only superficially concerned with increased civil and political liberty; it was essentially a movement for national independence. This movement came into violent conflict with British imperialism, whose aim was to increase the administrative efficiency of the Empire. Both the British and the colonial ideals were justifiable from their respective viewpoints, each one being in harmony with one of the two underlying tendencies in modern historical evolution. Ever since the disruption of the Carolingian Empire, the most marked tendency in the political evolution of the Western world has been the creation of ever greater political entities. The American Revolution ran counter to this movement, in so far as it led to the political disintegration of the Anglo-Saxon race. It ran with this stream to the extent that it was a factor in moulding a group of separatistic communities into the American nation. The American Revolution is, however, also a mile-stone in the other great movement of modern history. Concomitant with the creation of increasingly large political groups, has been the tendency to give the individual ever greater control over the governmental activities of these groups. Only to a very limited extent was the separation of the colonies from Great Britain produced by a deprivation of civil liberty. But as the movement resulted from a desire on the part of the colonies to gain complete control of their own destinies, the American Revolution has a distinct place in the history of democracy. This place is in reality an unduly exalted one, for it is the legend that has developed around the movement, rather than the actual

revolution itself, that has been the influential factor in the development of democratic ideas.

It is too early, at this day, to decide dogmatically, whether the movement spelt progress or reaction, or merely a temporary regression necessary to a further step in advance. It is easily conceivable, and not at all improbable that the political evolution of the next centuries may take such a course that the American Revolution will lose the great significance that is now attached to it, and will appear merely as the temporary separation of two kindred peoples whose inherent similarity was obscured by superficial differences, resulting from dissimilar economic and social conditions.

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